



"The City with a Heart"

Rico Medina, Mayor
Linda Mason, Vice Mayor
Tom Hamilton, Councilmember
Marty Medina, Councilmember
Michael Salazar, Councilmember

AB-361 CORONAVIRUS COVID-19

On September 16, 2021, the Governor of California signed AB-361 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the CDC's social distancing guidelines which discourage large public gatherings, the San Bruno City Council meetings are being conducted electronically. The meeting is not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda or watch by livestream at [youtube.com/user/cityofsanbruno](https://www.youtube.com/user/cityofsanbruno). CityNet Services Channel 1 will air the meeting live and the recorded meeting will be made available for viewing on the City's YouTube channel after the meeting has concluded.

If you would like to make a Public Comment on an item not on the agenda, or comment on a particular agenda item, please email cityclerk@sanbruno.ca.gov. Emails received before the special or regular meeting start time will be forwarded to the City Council, posted on the City's website and will become part of the public record for that meeting. If emailed comments are received after the meeting start time, or after the meeting ends, they will be forwarded to the City Council and filed with the agenda packet becoming part of the public record for that meeting. Emails received will not be read aloud during the meeting.

Individuals who require special assistance of a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the agenda, agenda packet or other writings that may be distributed at the meeting, should contact the City Clerk 48 hours prior to the meeting at (650) 616-7070 or by email at cityclerk@sanbruno.ca.gov. Notification in advance of the meeting will enable the City of San Bruno to make reasonable arrangements to ensure accessibility to this meeting, the materials related to it, and your ability to comment.

AGENDA SAN BRUNO CITY COUNCIL SPECIAL MEETING June 7, 2022 5:00 PM

Zoom Meeting Details

[https://sanbruno-ca-gov.zoom.us/j/84073180000?
pwd=bWtVcXN5dEYyK2FKU2d1WFBwSHZ0QT09](https://sanbruno-ca-gov.zoom.us/j/84073180000?pwd=bWtVcXN5dEYyK2FKU2d1WFBwSHZ0QT09)

Webinar or Meeting ID: 840 7318 0000

Webinar or Meeting Password: 786452

**Zoom Phone Line: 1-646-558-8656 (same webinar ID and password
as above)**

City Council meetings are conducted in accordance with Roberts Rules of Order. All regular Council meetings are recorded and televised on CityNet Services Channel 1 and replayed the following Thursday, at 2:00 pm.

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA**

Individuals allowed three minutes. It is the Council's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendized pursuant to State Law.

4. **CONSENT CALENDAR**

- a. Adopt Resolution Activating Level 2 of the San Bruno Water Shortage Contingency Plan

5. **CONDUCT OF BUSINESS**

- a. Receive Presentation on the 2022 San Bruno Revenue Measure Feasibility Survey

6. **PUBLIC HEARING**

- a. Conduct First Public Hearing Regarding Proposed City Charter and Commercial Real Property Transfer Tax

7. **STUDY SESSION**

- a. Receive Presentation and Provide Direction on Potential November 2022 Ballot Measures Regarding the Elected Mayor System and Enact Term Limits to the Elected Mayor and Council Offices
- b. Receive Presentation and Provide Direction on the Possibility of an Infrastructure Bond on November 2022 Ballot

8. **ADJOURNMENT** – The next Regular City Council Meeting will be held on June 14, 2022 at 7:00 p.m.



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: June 7, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Matthew Lee, Public Works Director

SUBJECT: Adopt Resolution Activating Level 2 of the San Bruno Water Shortage Contingency Plan

BACKGROUND:

On April 12, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, Governor Newsom “proclaimed states of emergency that continue today and exist across all the counties of California, due to extreme and expanding drought conditions” (Attachment 2). His July 8, 2021 Executive Order (N-10-21) called for a voluntary reduction of water use by 15 percent from 2020 levels.

As drought conditions have continue to worsen, Governor Newsom released Executive Order N-7-22 on March 28, 2022 (Attachment 2). Among the provisions in the Executive Order, Governor Newsom called for urban water suppliers to at a minimum implement Level 2 water shortage response actions, or measures to achieve a 15 percent water use reduction. The State Water Resources Control Board would follow with further details and an implementation date.

On May 24, 2022, the State Water Resources Control Board (SWRCB) approved an emergency drought regulation to extend and expand existing water conservation regulations (Attachment 3). The SWRCB order declared that urban water suppliers that have submitted a water shortage contingency plan, “shall implement by June 10, 2022, at a minimum, the demand reduction actions identified in the supplier’s water shortage contingency plan adopted under Water Code 10632 for a shortage level of ten to twenty percent (Level 2).”

Below is some background of the City’s Water Shortage Contingency Plan (WSCP) and City conservation initiatives and achievements since the last statewide drought emergency in 2014.

Water Shortage Contingency Plan and Conservation Levels

On October 26, 2021, the City Council adopted the updated Water Shortage Contingency Plan (WSCP) and the 2020 Urban Water Management Plan (UWMP). A UWMP is required to define the City’s current and future water demands, types of uses, supply sources, supply reliability and resiliency, a Water Shortage Contingency Plan (WSCP) and other measures. The purpose of the WSCP is to plan and outline levels of City response actions during periods of water shortage emergencies.

Under the City's Water Shortage Contingency Plan, there are six standard water shortage levels that correspond to progressive ranges of up to 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, and greater than 50 percent shortages from the normal supply condition. Each shortage condition corresponds to additional actions water suppliers would implement to meet the severity of the impending shortages.

The City is in the process of updating the San Bruno Municipal Code (SBMC) to incorporate updates to the California Water Code. The First Reading occurred at the May 24, 2022 City Council meeting, and the Second and final Reading is scheduled for the June 14, 2022 City Council meeting. The ordinance will become effective 30 days after it is adopted.

City Conservation Initiatives and Achievements since 2014

In response to the last major statewide drought declaration in 2014, the City activated and implemented various water conservation measures. At the July 26, 2016 City Council meeting, the City Council activated Level 1 voluntary conservation measures of the Water Shortage Contingency Plan. The City has remained, and is currently operating, under Level 1 voluntary conservation measures.

The City has also implemented a number of initiatives to encourage water conservation, including education programs at local schools such as "EarthCapades". The City and County also sponsor rebate programs like "Lawn Be Gone!" landscape conversions, rain barrel rebates, and low-flow toilet replacement rebates. The City also provides low-flow hardware giveaways such as faucet aerators, shower heads, shower timers, toilet tank bags, and irrigation hose nozzles. Other public outreach efforts include utility inserts with water conservation tips, City website updates, and posting banners throughout the City encouraging and demonstrating ways to use water more efficiently.

San Bruno residents have responded tremendously to the conservation efforts. Through April 2022, combined San Bruno residential, commercial, and city government water customers have reduced water use by 17% from 2013 levels.

According to the SWRCB announcement, the new base year to compare water conservation is 2020. Using this metric, overall water use through April 2022, has decreased 1% from April 2020.

The State so far has not set per agency reduction targets as they did in 2014. At this time, the State is only requiring all urban water agencies activate their WSCP Level 2 mandatory conservation measures, without announcing targeted compliance metrics. Staff will monitor the situation and return back to the City Council if the State modifies their drought emergency requirements.

DISCUSSION:

Proposed Conservation Initiatives

In order to comply with the State's emergency water conservation requirements and reduce overall water use, City staff are recommending to activate the following Level 2 mandatory water conservation actions as identified in the Water Shortage Contingency Plan's Table 4 – Demand

Reduction Actions (Attachment 4). References to sections of the SBMC below are to sections in effect at the time of adoption.

Shortage Level	Demand Reduction Actions	Explanation	Penalty, Charge, or Enforcement?
2	Landscape: Restrict or prohibit run-off from landscape irrigation	<u>SBMC 10.16.050:</u> <ul style="list-style-type: none"> • Make unlawful the watering of grass, lawn, groundcover, shrubbery, open ground crops and trees, in a manner that results in runoff into sidewalks, gutters and streets or during periods of precipitation, or to an extent which allows excess water to run to waste 	Y
2	Expand Public Information Campaign	Intensify public information campaign.	N
2	Landscape: Limit landscape irrigation to specific times	<u>SBMC 10.16.050:</u> <ul style="list-style-type: none"> • Make unlawful the watering of grass, lawn, groundcover, shrubbery, and trees between the hours of 9:00am and 4:00pm • <u>Odd Addresses:</u> may water Monday and Thursday • <u>Even Addresses:</u> may water Tuesday and Friday • <u>Non-Numerical Addresses:</u> may water Monday and Thursday • Irrigation shall be limited to 15 minutes per irrigation station • Other irrigation during and 48 hours following measurable precipitation is prohibited 	Y
2	Other: Customers must repair leaks, breaks, and malfunctions in a timely manner	<u>SBMC 10.16.050:</u> <ul style="list-style-type: none"> • Make unlawful the escape of water through leaks, breaks, or malfunction within the water user's plumbing or distribution system for any period of time within which such break or leak should reasonable have been discovered and corrected. It shall be presumed that a period of ten days after the water user discovers such break, leak, or malfunction, or receives notice from the City of such condition, whichever occurs first, is a reasonable time withing which to correct such condition or to make arrangement for correction. 	Y

2	Other: Require automatic shut-off hoses	<u>SBMC 10.16.050:</u> • Make unlawful the use of hoses not having automatic shut-off devices for the washing of cars, boats, trailers or other vehicles	Y
2	Other: Prohibit use of potable water for washing hard surfaces	<u>SBMC 10.16.050:</u> • Make unlawful the use of water from a hose for the cleaning of buildings, structures, walkways, sidewalks, driveways, patios, parking lots or hard-surfaced areas. The washing of windows or structures with a bucket and squeegee is not prohibited	Y

In addition to the above demand reduction actions, City staff recommends the following water use prohibitions for consistency with the emergency regulation adopted by SWRCB on May 24, 2022:

- Potable water use is prohibited for the irrigation of non-functional, ornamental turf at commercial, industrial, and institutional sites. Water may be used to the extent necessary to ensure the health of trees and other perennial non-turf plantings or to the extent necessary to address immediate health and safety need. The City may approve requests for continued irrigation of non-functional turf where the user certifies that the turf is a low water use plant with a plant factor of 0.3 or less, and demonstrates the actual use is less than 40% of the City's reference evapotranspiration.
- The State provides specific compliance action with this prohibition, where violators may be fined up to \$500 per day of violation, in addition to the City's enforcement actions.

The State's drought conditions are dynamic. If the state's drought conditions do not improve, the Governor and State Water Resources Control Board will evaluate and modify the state water conservation requirements. Staff will also evaluate monthly water demand and supply use and may return to the City Council at a later date to recommend revising the Water Shortage Contingency Plan Demand Reduction Actions and the Shortage Level category.

In the meantime, City staff will continue education and outreach efforts, including utility bill inserts, informational handouts at City facilities, and notices on the City's website. Water conservation signage will be posted at City parks, sports fields and facilities to inform residents. As a member of the Bay Area Water Supply and Conservation Agency (BAWSCA), City staff will continue to coordinate with BAWSCA on conservation outreach, and low-flow toilet, washing machine, and lawn-be-gone rebate programs.

City staff will continue providing monthly customer water use and conservation data to the State's Department of Water Resources (DWR).

Enforcement

If property owners are in violation of the City's water demand conservation actions, staff will attempt to discuss the violation and leave a written notice on-site if no contact is made. Upon a second violation, staff will again contact the property owner, leave a written door hanger, and also mail a letter to property owner. In the case of a repeated violation staff will take action in accordance with SBMC Chapter 10.16 section on Enforcement and Penalties, including restriction and discontinuance of service. Property owners may be subject to an administrative fine or civil infraction up to \$500. Education and notifications will be exhausted before enforcement is pursued.

FISCAL IMPACT:

There is no immediate fiscal impact as a result of approving this action. Increased staff time will be necessary to provide information to citizens, as well as track and respond to water waste reports, carry out enforcement actions if necessary and provide monthly reporting data to SWRCB. Should further resources be necessary to comply with the State's water conservation requirements, staff will discuss such requests with the City Council and receive direction at that time.

Reduced water consumption does have some impact on Water Fund revenue, and will be reviewed during development of the Water Rate Study, scheduled for City Council review by the end of 2022.

ENVIRONMENTAL IMPACT:

The action is not a project subject to CEQA. City Council's action is not considered a "Project" per Title 14 California Code of Regulations (CCR) §15378(b)(5) and would not result in a direct or reasonably foreseeable indirect physical change in the environment (per Title 14 CCR § 15060(c)(2)). Therefore, no further environmental analysis is required.

RECOMMENDATION:

Adopt Resolution activating Level 2 of the San Bruno Water Shortage Contingency Plan.

ALTERNATIVES:

1. Provide direction to staff regarding additional or alternative water use reduction strategies and requirements to meet the State mandate.

ATTACHMENTS:

1. Resolution
2. Executive Order N-7-22, March 28, 2022
3. SWRCB Resolution No. 2022-0018, May 24, 2022
4. Water Shortage Contingency Plan – Level 2 Actions

RESOLUTION NO. 2022 - ____

**RESOLUTION ACTIVATING LEVEL 2 OF THE SAN BRUNO WATER SHORTAGE
CONTINGENCY PLAN**

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order N-7-22 modifying previous emergency conservation regulations for urban water suppliers based on worsening watershed levels; and

WHEREAS, on May 24, 2022, in response to the Governor's Executive Order, the California State Water Resources Control Board (WRCB) approved emergency drought regulations effective June 10, 2022, declaring urban water suppliers implement Water Shortage Contingency Plan Level 2 demand reduction actions for a shortage level of ten to twenty percent from 2020 levels; and

WHEREAS, the City of San Bruno last activated its Water Shortage Contingency Plan (WSCP) and approving Level 1 voluntary water conservation actions at the July 26, 2016 City Council Meeting, in response to the 2014 statewide drought; and

WHEREAS, the City is still currently operating under WSCP Level 1 voluntary conservation actions which have resulted in significant overall water use reductions in San Bruno since 2014; and

WHEREAS, in accordance with the WSCB emergency regulations and reduce overall water use up to 20 percent, City staff are recommending the following Level 2 mandatory water conservation actions as identified in the Water Shortage Contingency Plan, Table 4 (Demand Reduction Actions):

- 1) Landscape – Restrict or prohibit run-off from landscape irrigation.
 - a. **SBMC 10316.050:**
 - i. Make unlawful the watering of grass, lawn, groundcover, shrubbery, open ground crops and trees, in a manner that results in runoff into sidewalks, gutters and streets or during periods of precipitation, or to an extent which allows excess water to run to waste
- 2) Expand Public Information Campaign
 - a. Intensify public information campaign.
- 3) Landscape – Limit landscape irrigation to specific times.
 - a. **SBMC 10.16.050:**
 - i. Make unlawful the watering of grass, lawn, groundcover, shrubbery, and trees between the hours of **9:00am and 4:00pm**
 - ii. Odd Addresses: may water Monday and Thursday
 - iii. Even Addresses: may water Tuesday and Friday
 - iv. Non-Numerical Addresses: may water Monday and Thursday
 - v. Irrigation shall be limited to 15 minutes per irrigation station
 - vi. Other irrigation during and 48 hours following measurable precipitation is prohibited

- 4) Other – Customers must repair leaks, breaks, and malfunctions in a timely manner
- a. **SBMC 10316.050:**
 - i. Make unlawful the escape of water through leaks, breaks, or malfunction within the water user’s plumbing or distribution system for any period of time within which such break or leak should reasonable have been discovered and corrected. It shall be presumed that a period of ten days after the water user discovers such break, leak, or malfunction, or receives notice from the City of such condition, whichever occurs first, is a reasonable time withing which to correct such condition or to make arrangement for correction.
- 5) Other – Require automatic shut-off hoses
- a. **SBMC 10.16.050:**
 - i. Make unlawful the use of hoses not having automatic shut-off devices for the washing of cars, boats, trailers or other vehicles.
- 6) Other – Prohibit use of potable water for washing hard surfaces
- a. **SBMC 10.16.050:**
 - i. Make unlawful the use of water from a hose for the cleaning of buildings, structures, walkways, sidewalks, driveways, patios, parking lots or hard-surfaced areas. The washing of windows or structures with a bucket and squeegee is not prohibited.

WHEREAS, City staff will monitor and evaluate monthly water demand and supply conditions and will recommend adjustments to the City’s drought response and Water Shortage Contingency Plan Water Reduction Demand Actions.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby activates Level 2 of the City’s Water Shortage Contingency Plan.

Dated: June 7, 2022

ATTEST:

Vicky Hasha, Deputy City Clerk

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I, Vicky Hasha, Deputy City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 7th day of June 2022 by the following vote:

AYES: Councilmembers: _____

NOES: Councilmembers _____

ABSENT: Councilmembers _____

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-7-22

WHEREAS on April 12, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, I proclaimed states of emergency that continue today and exist across all the counties of California, due to extreme and expanding drought conditions; and

WHEREAS climate change continues to intensify the impacts of droughts on our communities, environment, and economy, and California is in a third consecutive year of dry conditions, resulting in continuing drought in all parts of the State; and

WHEREAS the 21st century to date has been characterized by record warmth and predominantly dry conditions, and the 2021 meteorological summer in California and the rest of the western United States was the hottest on record; and

WHEREAS since my October 19, 2021 Proclamation, early rains in October and December 2021 gave way to the driest January and February in recorded history for the watersheds that provide much of California's water supply; and

WHEREAS the ongoing drought will have significant, immediate impacts on communities with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish and wildlife that rely on stream flows and cool water; and

WHEREAS the two largest reservoirs of the Central Valley Project, which supplies water to farms and communities in the Central Valley and the Santa Clara Valley and provides critical cold-water habitat for salmon and other anadromous fish, have water storage levels that are approximately 1.1 million acre-feet below last year's low levels on this date; and

WHEREAS the record-breaking dry period in January and February and the absence of significant rains in March have required the Department of Water Resources to reduce anticipated deliveries from the State Water Project to 5 percent of requested supplies; and

WHEREAS delivery of water by bottle or truck is necessary to protect human safety and public health in those places where water supplies are disrupted; and

WHEREAS groundwater use accounts for 41 percent of the State's total water supply on an average annual basis but as much as 58 percent in a critically dry year, and approximately 85 percent of public water systems rely on groundwater as their primary supply; and

WHEREAS coordination between local entities that approve permits for new groundwater wells and local groundwater sustainability agencies is important to achieving sustainable levels of groundwater in critically overdrafted basins; and

WHEREAS the duration of the drought, especially following a multiyear drought that abated only five years ago, underscores the need for California to redouble near-, medium-, and long-term efforts to adapt its water management and delivery systems to a changing climate, shifting precipitation patterns, and water scarcity; and

WHEREAS the most consequential, immediate action Californians can take to extend available supplies is to voluntarily reduce their water use by 15 percent from their 2020 levels by implementing the commonsense measures identified in operative paragraph 1 of Executive Order N-10-21 (July 8, 2021); and

WHEREAS to protect public health and safety, it is critical the State take certain immediate actions without undue delay to prepare for and mitigate the effects of the drought conditions, and under Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Proclamation would prevent, hinder, or delay the mitigation of the effects of the drought conditions.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021 Proclamations remain in full force and effect, except as modified by those Proclamations and herein. State agencies shall continue to implement all directions from those Proclamations and accelerate implementation where feasible.
2. To help the State achieve its conservation goals and ensure sufficient water for essential indoor and outdoor use, I call on all Californians to strive to limit summertime water use and to use water more efficiently indoors and out. The statewide Save Our Water conservation campaign at [SaveOurWater.com](https://www.SaveOurWater.com) provides simple ways for Californians to reduce water use in their everyday lives. Furthermore, I encourage Californians to understand and track the amount of water they use and measure their progress toward their conservation goals.
3. By May 25, 2022, the State Water Resources Control Board (Water Board) shall consider adopting emergency regulations that include all of the following:
 - a. A requirement that each urban water supplier, as defined in section 10617 of the Water Code, shall submit to the Department of Water Resources a preliminary annual water supply and demand assessment consistent with section 10632.1 of the Water Code no later than June 1, 2022, and submit a final annual water

supply and demand assessment to the Department of Water Resources no later than the deadline set by section 10632.1 of the Water Code;

- b. A requirement that each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, the shortage response actions adopted under section 10632 of the Water Code for a shortage level of up to twenty percent (Level 2), by a date to be set by the Water Board; and
- c. A requirement that each urban water supplier that has not submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, shortage response actions established by the Water Board, which shall take into consideration model actions that the Department of Water Resources shall develop for urban water supplier water shortage contingency planning for Level 2, by a date to be set by the Water Board.

To further conserve water and improve drought resiliency if the drought lasts beyond this year, I encourage urban water suppliers to conserve more than required by the emergency regulations described in this paragraph and to voluntarily activate more stringent local requirements based on a shortage level of up to thirty percent (Level 3).

- 4. To promote water conservation, the Department of Water Resources shall consult with leaders in the commercial, industrial, and institutional sectors to develop strategies for improving water conservation, including direct technical assistance, financial assistance, and other approaches. By May 25, 2022, the Water Board shall consider adopting emergency regulations defining "non-functional turf" (that is, a definition of turf that is ornamental and not otherwise used for human recreation purposes such as school fields, sports fields, and parks) and banning irrigation of non-functional turf in the commercial, industrial, and institutional sectors except as it may be required to ensure the health of trees and other perennial non-turf plantings.
- 5. In order to maximize the efficient use of water and to preserve water supplies critical to human health and safety and the environment, Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended, with respect to the directives in paragraphs 3 and 4 of this Order and any other projects and activities for the purpose of water conservation to the extent necessary to address the impacts of the drought, and any permits necessary to carry out such projects or activities. Entities that desire to conduct activities under this suspension, other than the directives in paragraphs 3 and 4 of this Order, shall first request that the Secretary of the Natural Resources Agency make a determination that the proposed activities are eligible to be conducted under this suspension. The Secretary shall use sound discretion in applying this Executive Order to ensure that the suspension serves the purpose of accelerating conservation projects that are necessary to address impacts of the drought, while at the same time

protecting public health and the environment. The entities implementing these directives or conducting activities under this suspension shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

6. To support voluntary approaches to improve fish habitat that would require change petitions under Water Code section 1707 and either Water Code sections 1425 through 1432 or Water Code sections 1725 through 1732, and where the primary purpose is to improve conditions for fish, the Water Board shall expeditiously consider petitions that add a fish and wildlife beneficial use or point of diversion and place of storage to improve conditions for anadromous fish. California Code of Regulations, title 23, section 1064, subdivisions (a)(1)(A)(i)-(ii) are suspended with respect to any petition that is subject to this paragraph.
7. To facilitate the hauling of water for domestic use by local communities and domestic water users threatened with the loss of water supply or degraded water quality resulting from drought, any ordinance, regulation, prohibition, policy, or requirement of any kind adopted by a public agency that prohibits the hauling of water out of the water's basin of origin or a public agency's jurisdiction is hereby suspended. The suspension authorized pursuant to this paragraph shall be limited to the hauling of water by truck or bottle to be used for human consumption, cooking, or sanitation in communities or residences threatened with the loss of affordable safe drinking water. Nothing in this paragraph limits any public health or safety requirement to ensure the safety of hauled water.
8. The Water Board shall expand inspections to determine whether illegal diversions or wasteful or unreasonable use of water are occurring and bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water. When access is not granted by a property owner, the Water Board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of conducting an inspection pursuant to this directive.
9. To protect health, safety, and the environment during this drought emergency, a county, city, or other public agency shall not:
 - a. Approve a permit for a new groundwater well or for alteration of an existing well in a basin subject to the Sustainable Groundwater Management Act and classified as medium- or high-priority without first obtaining written verification from a Groundwater Sustainability Agency managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan adopted by that Groundwater Sustainability

Agency and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan; or

- b. Issue a permit for a new groundwater well or for alteration of an existing well without first determining that extraction of groundwater from the proposed well is (1) not likely to interfere with the production and functioning of existing nearby wells, and (2) not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

This paragraph shall not apply to permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users, or that will exclusively provide groundwater to public water supply systems as defined in section 116275 of the Health and Safety Code.

10. To address household or small community drinking water shortages dependent upon groundwater wells that have failed due to drought conditions, the Department of Water Resources shall work with other state agencies to investigate expedited regulatory pathways to modify, repair, or reconstruct failed household or small community or public supply wells, while recognizing the need to ensure the sustainability of such wells as provided for in paragraph 9.
11. State agencies shall collaborate with tribes and federal, regional, and local agencies on actions related to promoting groundwater recharge and increasing storage.
12. To help advance groundwater recharge projects, and to demonstrate the feasibility of projects that can use available high water flows to recharge local groundwater while minimizing flood risks, the Water Board and Regional Water Quality Control Boards shall prioritize water right permits, water quality certifications, waste discharge requirements, and conditional waivers of waste discharge requirements to accelerate approvals for projects that enhance the ability of a local or state agency to capture high precipitation events for local storage or recharge, consistent with water right priorities and protections for fish and wildlife. For the purposes of carrying out this paragraph, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division, and Chapter 3 (commencing with section 85225) of Part 3 of Division 35 of the Water Code and regulations adopted pursuant thereto are hereby suspended to the extent necessary to address the impacts of the drought. This suspension applies to (a) any actions taken by state agencies, (b) any actions taken by local agencies where the state agency with primary responsibility for the implementation of the directives concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b). The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.
13. With respect to recharge projects under either Flood-Managed Aquifer Recharge or the Department of Water Resources Sustainable

Groundwater Management Grant Program occurring on open and working lands to replenish and store water in groundwater basins that will help mitigate groundwater conditions impacted by drought, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Department of Water Resources concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b), Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended to the extent necessary to address the impacts of the drought. The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

14. To increase resilience of state water supplies during prolonged drought conditions, the Department of Water Resources shall prepare for the potential creation and implementation of a multi-year transfer program pilot project for the purpose of acquiring water from willing partners and storing and conveying water to areas of need.
15. By April 15, 2022, state agencies shall submit to the Department of Finance for my consideration proposals to mitigate the worsening effects of severe drought, including emergency assistance to communities and households and others facing water shortages as a result of the drought, facilitation of groundwater recharge and wastewater recycling, improvements in water use efficiency, protection of fish and wildlife, mitigation of drought-related economic or water-supply disruption, and other potential investments to support short- and long-term drought response.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 28th day of March 2022.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2022-0018**

**TO ADOPT AN EMERGENCY REGULATION
TO REDUCE WATER DEMAND AND IMPROVE WATER CONSERVATION**

WHEREAS:

1. On April 21, May 10, July 8, and October 19, 2021, Governor Newsom issued proclamations that a state of emergency exists statewide due to severe drought conditions and directed state agencies to take immediate action to preserve critical water supplies and mitigate the effects of drought and ensure the protection of health, safety, and the environment.
2. These proclamations urge Californians to reduce their water use.
3. On March 28, 2022, Governor Newsom signed an Executive Order directing the State Water Resources Control Board (State Water Board or Board) to consider adopting emergency regulations to increase water conservation. The Executive Order includes a request that the Board require urban water suppliers to implement Level 2 of their water shortage contingency plans, establish water shortage response actions for urban water suppliers that have not submitted water shortage contingency plans, taking into consideration model actions that the Department of Water Resources, and establish a ban on the irrigation of non-functional turf by entities in the commercial, industrial, and institutional sectors.
4. Many Californians and urban water suppliers have taken bold steps over the years to reduce water use; nevertheless, the severity of the current drought requires additional conservation actions from urban water suppliers, residents, and the commercial, industrial, and institutional sectors.
5. Water conservation is the easiest, most efficient, and most cost-effective way to quickly reduce water demand and extend limited water supplies through this summer and into the next year, providing flexibility for all California communities. Water saved is water available next year, giving water suppliers added flexibility to manage their systems effectively over time. The more water that is conserved now, the less likely it is that a community will experience dire shortages that may require water rationing or other emergency actions.
6. Most Californians use more water outdoors than indoors. In many areas, 50 percent or more of daily water use is for irrigation of lawns and outdoor landscaping irrigation. Outdoor water use is generally discretionary, and many irrigated landscapes would not suffer greatly from receiving a decreased amount of water.

7. The use of potable water to irrigate turf on commercial, industrial, or institutional properties that is not regularly used for human recreational purposes or for civic or community events can be reduced in commercial, industrial, and institutional areas to protect local water resources and enhance water resiliency.
8. Public information and awareness are critical to achieving conservation goals, and the Save Our Water campaign ([SaveOurWater.com](https://www.saveourwater.com)), run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response.
9. [SaveWater.CA.Gov](https://www.savewater.ca.gov) is an online tool designed to help save water in communities. This website lets anyone easily report water waste from their phone, tablet, or computer by simply selecting the type of water waste they see, typing in the address where the waste is occurring, and clicking send. These reports are filed directly with the State Water Board and relevant local water supplier.
10. Enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated.
11. On March 28, 2022, the Governor suspended the environmental review required by the California Environmental Quality Act to allow State Water Board-adopted drought conservation emergency regulations and other actions to take place quickly to respond to emergency conditions.
12. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: “prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter’s priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.”
13. On May 13, 2022, the State Water Board issued public notice that it will consider the adoption of the regulation at the Board’s regularly scheduled May 24, 2022 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations.
14. The emergency regulation exempts suppliers from enforcing connection moratoria, if their Level 2 demand management actions call for them, because new residential connections are critical to addressing the state’s housing supply shortage. However, the Board recognizes connections for other projects may not be appropriate given the shortage conditions and urges water suppliers to carefully evaluate new development projects for their water use impacts.

15. Disadvantaged communities may require assistance responding to Level 2 conservation requirements, including irrigation restrictions, temporary changes to rate structures, and prohibited water uses. State shortage contingency plans aimed at increasing water conservation, and state and local agencies should look for opportunities to provide assistance in promoting water conservation. This assistance should include but not be limited to translation of regulation text and dissemination of water conservation announcements into languages spoken by at least 10 percent of the people who reside in a water supplier's service area, such as in newspaper advertisements, bill inserts, website homepage, social media, and notices in public libraries.
16. The Board directs staff to consider the following in pursuing any enforcement of section 996, subdivision (e): before imposing monetary penalties, staff shall provide one or more warnings; monetary penalties must be based on an ability to pay determination, consider allowing a payment plan of at least 12 months, and shall not result in a tax lien; and Board enforcement shall not result in shutoff.
17. The Board encourages entities other than Board staff that consider any enforcement of this regulation to apply these same factors identified in resolved paragraph 16. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulation adopted by this resolution, and local agencies retain their enforcement discretion in enforcing the regulation, to the extent authorized, and may develop their own progressive enforcement practices to encourage conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, section 996, as appended to this resolution as an emergency regulation that applies to urban water suppliers, as defined by Water Code section 10617.
2. State Water Board staff shall submit the regulation to the Office of Administrative Law (OAL) for final approval.
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes.

4. This regulation shall remain in effect for one year after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions or unless the State Water Board renews the regulation due to continued drought conditions, as described in Water Code section 1058.5.
5. The State Water Board directs State Water Board staff to work with the Department of Water Resources and the Save Our Water campaign to disseminate information regarding the emergency regulation.
6. The State Water Board directs staff to, by January 1, 2023, survey urban water suppliers on their experience protecting trees and tree cover during drought, with attention to disadvantaged communities. The survey shall inquire about challenges encountered, strategies used, costs, and successes in protecting trees.
7. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Local agencies are encouraged to develop their own progressive enforcement practices to promote conservation.

CERTIFICATION


The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 24, 2022.

AYE: Chair E. Joaquin Esquivel
Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone

NAY: None

ABSENT: Board Member Nichole Morgan

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED EMERGENCY REGULATION TEXT

Version: May 24, 2022

Title 23. Waters

Division 3. State Water Resources Control Board and Regional Water Quality Control Boards

Chapter 3.5. Urban Water Use Efficiency and Conservation

Article 2. Prevention of Drought Wasteful Water Uses

§ 996. Urban Drought Response Actions

(a) As used in this section:

(1) “Commercial, industrial and institutional” refers to commercial water users, industrial water users, and institutional water users as respectively defined in Water Code, section 10608.12, subdivisions (e), (i), and (j), and includes homeowners’ associations, common interest developments, community service organizations, and other similar entities but does not include the residences of these entities’ members or separate interests.

(2) “Common interest development” has the same meaning as in section 4100 of the Civil Code.

(3) “Community service organization or similar entity” has the same meaning as in section 4110 of the Civil Code.

(4) “Homeowners’ association” means an “association” as defined in section 4080 of the Civil Code.

(5) “Non-functional turf” means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. Non-functional turf does not include sports fields and turf that is regularly used for human recreational purposes or for civic or community events.

(6) “Plant factor” has the same meaning as in section 491.

(7) “Separate interest” has the same meaning as in section 4185 of the Civil Code.

(8) “Turf” has the same meaning as in section 491.

(9) “Urban water supplier” has the same meaning as Water Code section 10617.

(10) “Water shortage contingency plan” means the plan required by Water Code section 10632.

(b) Each urban water supplier shall submit to the Department of Water Resources a preliminary annual water supply and demand assessment consistent with section

10632.1 of the Water Code no later than June 1, 2022, and submit a final annual water supply and demand assessment to the Department of Water Resources no later than the deadline set by section 10632.1 of the Water Code.

(c) (1) Each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources shall implement by June 10, 2022, at a minimum, all demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2).

(2) Notwithstanding subdivision (c)(1), urban water suppliers shall not be required to implement new residential connection moratoria pursuant to this section.

(3) Notwithstanding subdivision (c)(1), an urban water supplier may implement the actions identified in subdivision (d) in lieu of implementing the demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code section 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2), provided the supplier meets all of the following:

(i) The supplier's annual water supply and demand assessment submitted to the Department of Water Resources demonstrates an ability to maintain reliable supply until September 30, 2023.

(ii) The supplier does not rely on, for any part of its supply, the Colorado River, State Water Project, or Central Valley Project, and no more than ten (10) percent of its supply comes from critically overdrafted groundwater basins as designated by the Department of Water Resources.

(iii) The supplier's average number of gallons of water used per person per day by residential customers for the year 2020 is below 55 gallons, as reported to the Board in the Electronic Annual Report.

(d) Each urban water supplier that has not submitted a water shortage contingency plan to the Department of Water Resources shall, by June 10, 2022, and continuing until the supplier has implemented all demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2), implement at a minimum the following actions:

(1) Initiate a public information and outreach campaign for water conservation and promptly and effectively reach the supplier's customers, using efforts such as email, paper mail, bill inserts, customer app notifications, news articles, websites, community events, radio and television, billboards, and social media.

(2) Implement and enforce a rule or ordinance limiting landscape irrigation with potable water to no more than two (2) days per week and prohibiting landscape irrigation with potable water between the hours of 10:00 a.m. and 6:00 p.m.

(3) Implement and enforce a rule or ordinance banning, at a minimum, the water uses prohibited by section 995. Adoption of a rule or ordinance is not required if the supplier has authority to enforce, as infractions, the prohibitions in section 995 and takes enforcement against violations.

- (e) (1) To prevent the unreasonable use of water and to promote water conservation, the use of potable water is prohibited for the irrigation of non-functional turf at commercial, industrial, and institutional sites.
- (2) Notwithstanding subdivision (e)(1), the use of water is not prohibited by this section to the extent necessary to ensure the health of trees and other perennial non-turf plantings or to the extent necessary to address an immediate health and safety need.
- (3) Notwithstanding subdivision (e)(1), an urban water supplier may approve a request for continued irrigation of non-functional turf where the user certifies that the turf is a low water use plant with a plant factor of 0.3 or less, and demonstrates the actual use is less than 40% of reference evapotranspiration.
- (f) The taking of any action prohibited in subdivision (e) is an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal.
- (g) A decision or order issued under this section by the Board, or an officer or employee of the Board, is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the Water Code.

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 4080, 4100, 4110, and 4185, Civil Code; Section 8627.7, Government Code; Sections 102, 104, 105, 275, 350, 377, 491, 1122, 10608.12, 10617, 10632, and 10632.1, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *Stanford Vina Ranch Irrigation Co. v. State of California* (2020) 50 Cal.App.5th 976.



Water Shortage Contingency Plan

Table 4. Water Shortage Contingency Plan Demand Reduction Actions (DWR Table 8-2)

Shortage Level	Demand Reduction Actions <i>Drop down list</i> <i>These are the only categories that will be accepted by the WUEdata online submittal tool. Select those that apply.</i>	How much is this going to reduce the shortage gap? <i>Include units used (volume type or percentage)</i>	Additional Explanation or Reference <i>(optional)</i>	Penalty, Charge, or Other Enforcement? <i>For Retail Suppliers Only Drop Down List</i>
<i>Add additional rows as needed</i>				
1	Expand Public Information Campaign	Studies have shown that a targeted public information campaign during a drought can reduce water use by 7 - 8%	Implement voluntary water conservation measures that are promoted through a public information campaign aimed at increasing awareness through the distribution of literature and bill inserts, newspaper advertisements, and educational speakers for schools and other groups.	No
2	Landscape - Restrict or prohibit runoff from landscape irrigation	< 1%	SBMC 10.16.050 - Make unlawful the watering of grass, lawn, groundcover, shrubbery, open ground crops and trees, in a manner that results in runoff into sidewalks, gutters and streets or during periods of precipitation, or to an extent which allows excess water to run to waste.	Yes
2	Expand Public Information Campaign	Studies have shown that a targeted public information campaign during a drought can reduce water use by 7 - 8%	Intensify public information campaign.	No
2	Landscape - Limit landscape irrigation to specific times	Depends on times that irrigation will be allowed, but can reduce water use by 20-25 gallons per day per household	SBMC 10.16.050 - Make unlawful the watering of grass, lawn, groundcover, shrubbery, and trees, between the hours of nine a.m. and four p.m. Odd addresses may water Monday and Thursday, even addresses may water Tuesday and Friday, and non-numerical addresses may water Monday and Thursday. Irrigation shall be limited to 15 minutes per irrigation station. Outdoor irrigation during and 48 hours following measurable precipitation is prohibited.	Yes
2	Other - Customers must repair leaks, breaks, and malfunctions in a timely manner	Boosts the effectiveness of other methods - not readily quantifiable	SBMC 10.16.050 - Make unlawful the escape of water through leaks, breaks, or malfunction within the water user's plumbing or distribution system for any period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of ten days after the water user discovers such break, leak, or malfunction, or receives notice from the City of such condition, whichever occurs first, is a reasonable time within which to correct such condition or to make arrangement for correction.	Yes
2	Other - Require automatic shut off hoses	Many suppliers already prohibit unrestricted hose use	SBMC 10.16.050 - Make unlawful the use of hoses not having automatic shut-off devices for the washing of cars, boats, trailers or other vehicles.	Yes
2	Other - Prohibit use of potable water for washing hard surfaces	Boosts other methods - not readily quantifiable	SBMC 10.16.050 - Make unlawful the use of water from a hose for the cleaning of buildings, structures, walkways, sidewalks, driveways, patios, parking lots or hard-surfaced areas. The washing of windows or structures with a bucket and squeegee is not prohibited.	Yes
2	Other - Prohibit vehicle washing except at facilities using recycled or recirculating water	100-200 gallons/year/residential connection	SBMC 10.16.050 - Make unlawful the operation of a car wash using water from the City's water system, unless water for such use is recycled.	Yes
2	Other	< 1%	SBMC 10.16.050 - Make unlawful the use of water from any fire hydrant unless specifically authorized by permit from the Public Works Director except by regularly constituted fire protection agencies for fire suppression purposes.	Yes
2	Water Features - Restrict water use for decorative water features, such as fountains	Boosts other methods as a public display of drought conservation, difficult to quantify	SBMC 10.16.050 - Make unlawful the use of water to fill, clean or maintain artificial or decorative lakes, fountains or ponds with a capacity of one thousand gallons or more.	Yes
2	Other - Prohibit use of potable water for construction and dust control	3,000 gallons/acre/day for construction areas	SBMC 10.16.050 - Make unlawful using potable water from whatever source, in construction for dust control, or soil compaction unless reclaimed (or "nonpotable") water is not available. Vehicles hauling and spraying such water must have standardized signs indicating "reclaimed" or "nonpotable" water.	Yes



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: June 7, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Jennifer Dianos, Assistant to the City Manager

SUBJECT: Receive Presentation on the 2022 San Bruno Revenue Measure Feasibility Survey

BACKGROUND:

During the City Council's strategic planning session in February 2022, the City Council discussed several items for consideration as potential measures in the November 2022 election. As follow-up to that discussion, City staff presented options for direction at a special City Council meeting held on March 29, 2022. These options included:

- Establishing a city charter with integral commercial real estate transfer tax
- Determining if the following initiatives should be on the November 2022 ballot, or whether they should be integral to a proposed city charter
 - Adopting alternative voting methods
 - Repealing the office of elected Mayor and establishing a rotational Mayoral process
 - Establishing term limits for councilmembers
 - Adopting local campaign finance regulations

The City Council expressed interest and provided staff with direction to pursue the items, with two exceptions: consider alternate voting methods at a future time; and local campaign finance regulations could be handled by Ordinance and not as a ballot measure, so long as staff brought forward an Ordinance that the City Council could adopt in the 2022 calendar year.

DISCUSSION:

The City of San Bruno partnered with a TGWBH / Props and Measures (ballot consultant) and Godbe Research (polling consultant) to prepare and conduct an independent community survey in May 2022 to evaluate the initiatives discussed on March 29, 2022 and the feasibility of an infrastructure bond on the November 2022 ballot. This effort is a key component to the ongoing Comprehensive Fiscal Sustainability Project which includes the study the City's fiscal condition and potential revenue options to ensure public services that may be unfunded or underfunded. As part of the process, the City Council also established a City Council subcommittee, consisting of Vice Mayor Mason and Councilmember Marty Medina to review the survey questions.

Godbe Research conducted the survey from May 11-18, 2022, targeting likely November 2022 voters. Godbe ResearchTGWBH / Props and Measures will present the survey results to the City Council during the June 7, 2022 City Council meeting.

Based on the results of the survey, the consultants concluded that:

- The bond measure as-tested does not appear viable this year at the required 2/3 voter approval threshold.
- Residents are price-sensitive as regards a potential future bond measure.
- Strong majorities of voters do prioritize important capital improvements.
- San Bruno residents prioritize funding for streets and roads, fire stations, storm drains, parks and libraries, in that order.
- Commercial transfer tax/Charter measure is viable for 2022; slight adjustments might be recommended to the ballot language.

A presentation of the summary survey results is attached to this staff report.

FISCAL IMPACT: There is no immediate fiscal impact to this Study Session. The costs associated with the direction to proceed with a ballot measure for the November 2022 election will be reported with that item.

ENVIRONMENTAL IMPACT: There is no environmental impact. The action is not a project subject to CEQA. City Council's action is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

RECOMMENDATION: Study Session - Presentation of the Highlights of a 2022 San Bruno Revenue Measure Feasibility Survey

ALTERNATIVES:

1. Direct staff to further study the identified potential ballot initiatives.

ATTACHMENTS:

1. Summary of Results from the 2022 San Bruno Revenue Measure Feasibility Survey



GODBE RESEARCH
Gain Insight



City of San Bruno: Summary of Results from the 2022 San Bruno Revenue Measure Feasibility Survey

May 2022

Overview and Research Objectives

The City of San Bruno commissioned Godbe Research to conduct a survey of local voters with the following research objectives:

- Gauge satisfaction with the City's provision of services and management of public funds;
- Gauge the public's perceptions of where the economy is headed and the City's efforts to address the coronavirus crisis;
- Assess potential voter support for a bond measure to upgrade fire stations; modernize the San Bruno Library; improve neighborhood parks, ballfields and playgrounds; and repair deteriorating storm drains with funding that cannot be taken by the State;
- Prioritize projects and programs to be funded with the proceeds;
- Test the influence of informational and critical statements on potential voter support;
- Identify the rate at which voters will support the measure;
- Assess potential voter support for additional measures including a commercial real estate property transfer tax, amendment to the municipal code to rotate the Mayor position among Council Members, and amendment to the municipal code to limit service for City Council Members and Mayor to 3 consecutive 4-year terms; and
- Identify any differences in voter support due to demographic and/or voter behavioral characteristics.

Methodology Overview

- Data Collection Landline (15), cell (78), text to online (311), and email to online (42) interviewing
- Universe 11,400 Likely November 2022 Voters
- Fielding Dates May 11 to May 18, 2022
- Interview Length 25 minutes
- Sample Size 446
- Margin of Error $\pm 4.55\%$



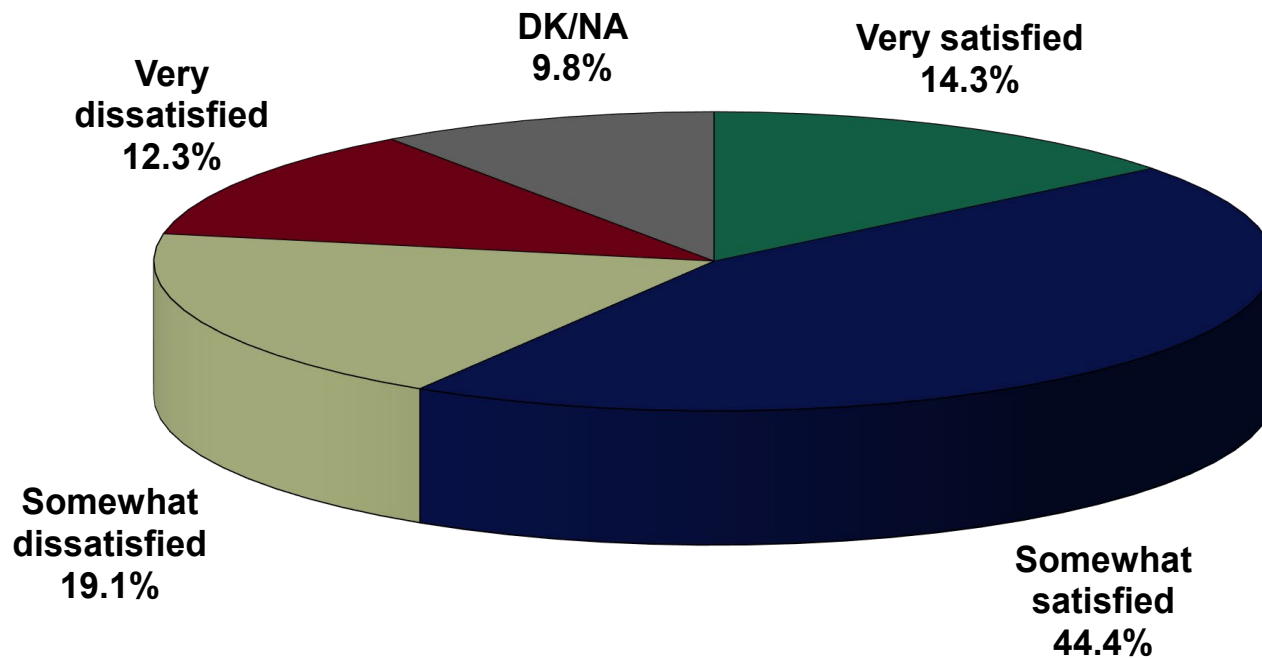
GODBE RESEARCH
Gain Insight



Key Findings

Q1. Satisfaction With City's Provision of Services

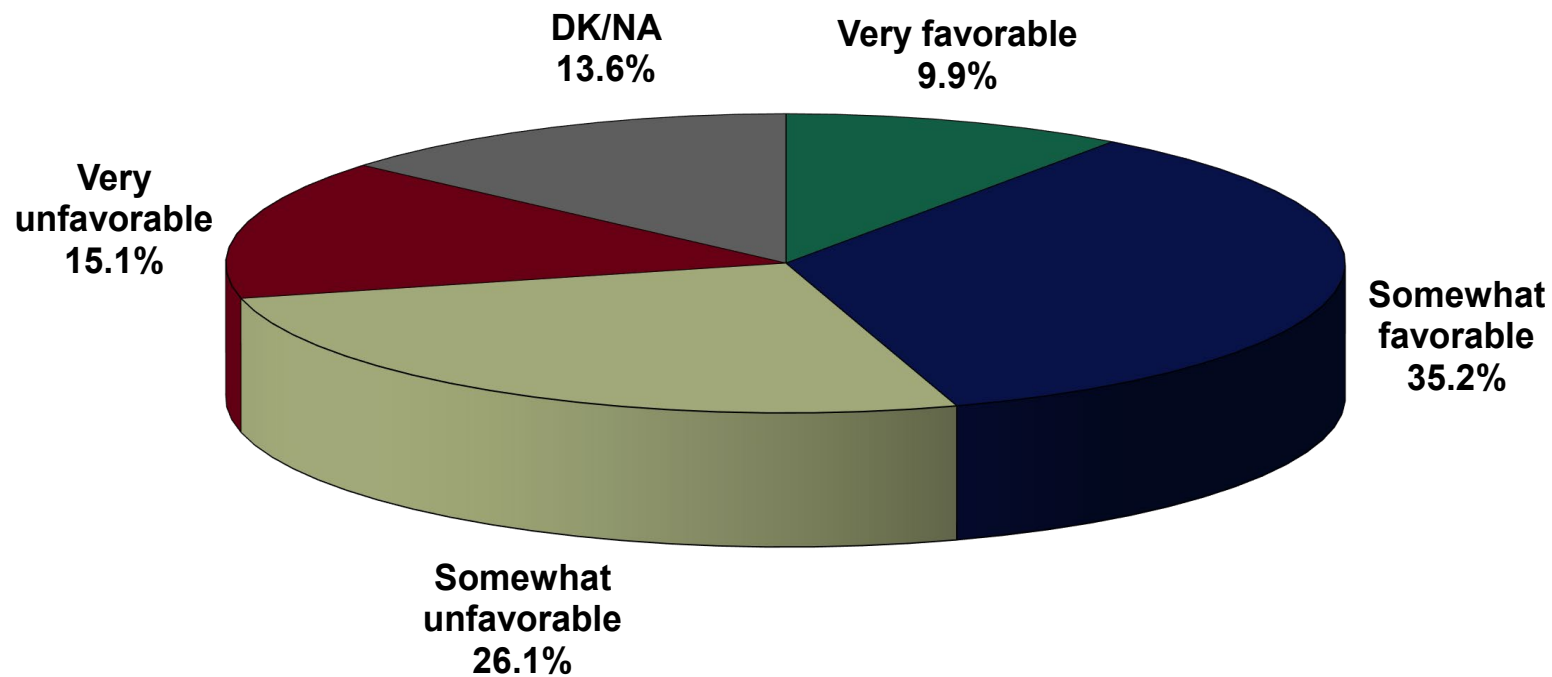
Likely November 2022 Voters



	Nov 2020	Nov 2022
Total Satisfied	63.9%	58.8%
Total Dissatisfied	20.2%	31.4%
Ratio Sat to Dissat	3.2	1.87

Q2. Favorability Rating of the City's Management of Public Funds

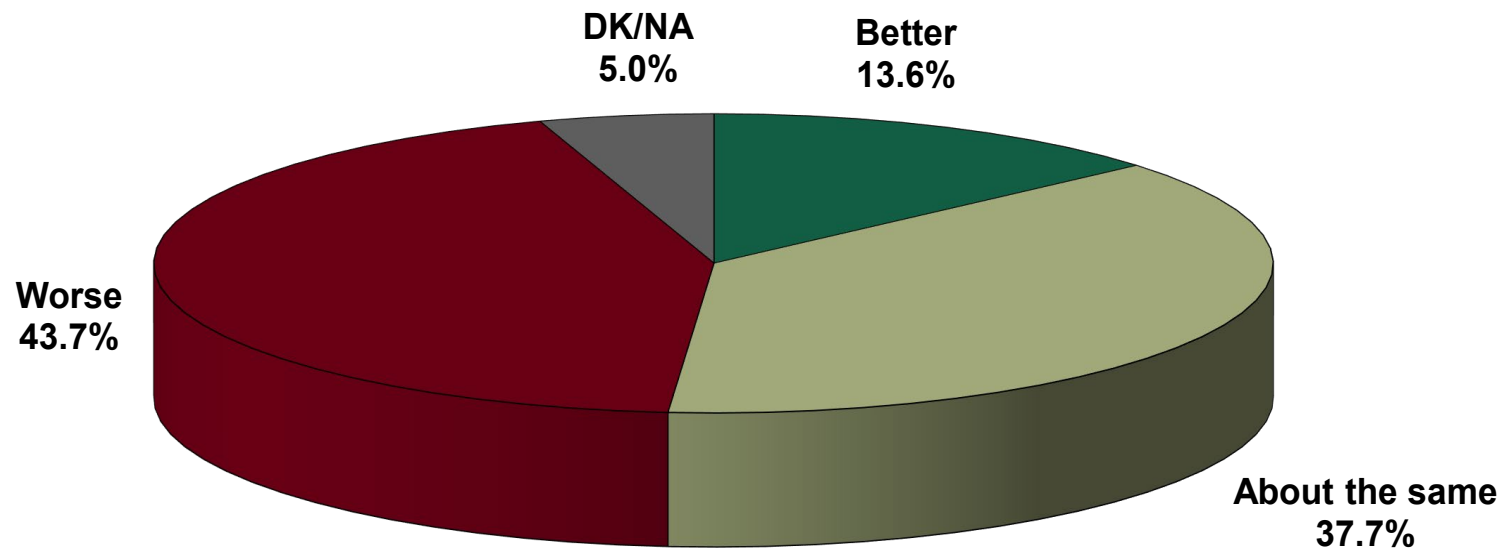
Likely November 2022 Voters



	Nov 2020	Nov 2022
Total Favorable	43.3%	45.1%
Total Unfavorable	34.8%	41.3%
Ratio Fav to Unfav	1.2	1.09

Q3. Opinion on Direction of Economy in 6 Months

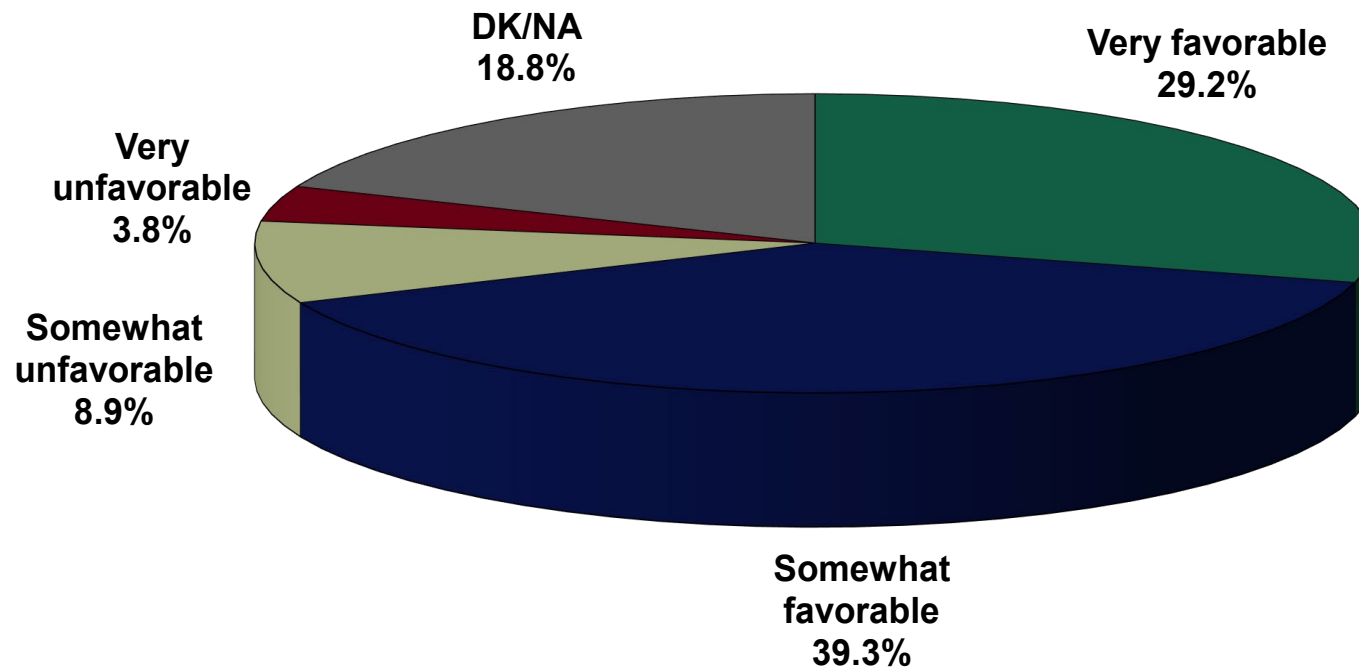
Likely November 2022 Voters



	Nov 2020	Nov 2022
Better	27.0%	13.6%
About the same	18.2%	37.7%
Worse	43.6%	43.7%
DK/NA	11.2%	5.0%

Q4. Favorability Rating of How the City is Addressing the COVID Crisis

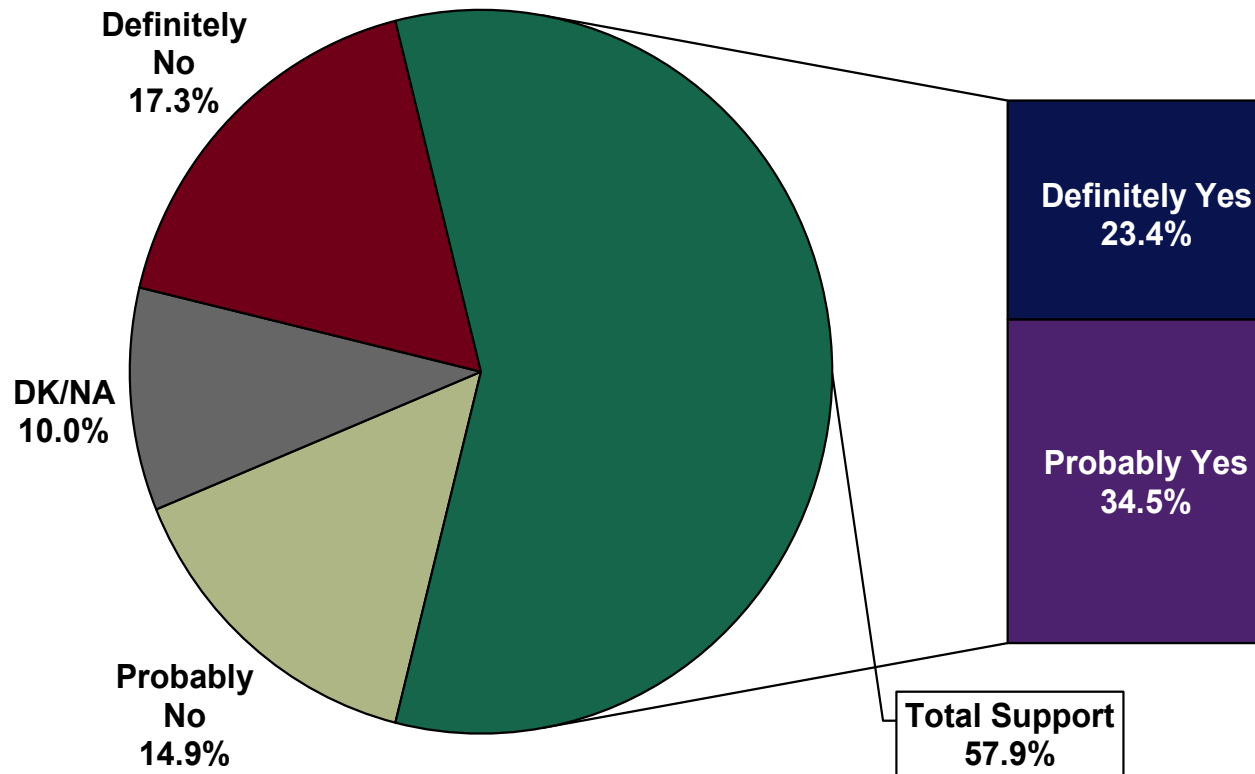
Likely November 2022 Voters



Nov 2022

Total Favorable	68.5%
Total Unfavorable	12.7%
Ratio Fav to Unfav	5.39

Q5. First Test of Support for Bond Measure Likely November 2022 Voters



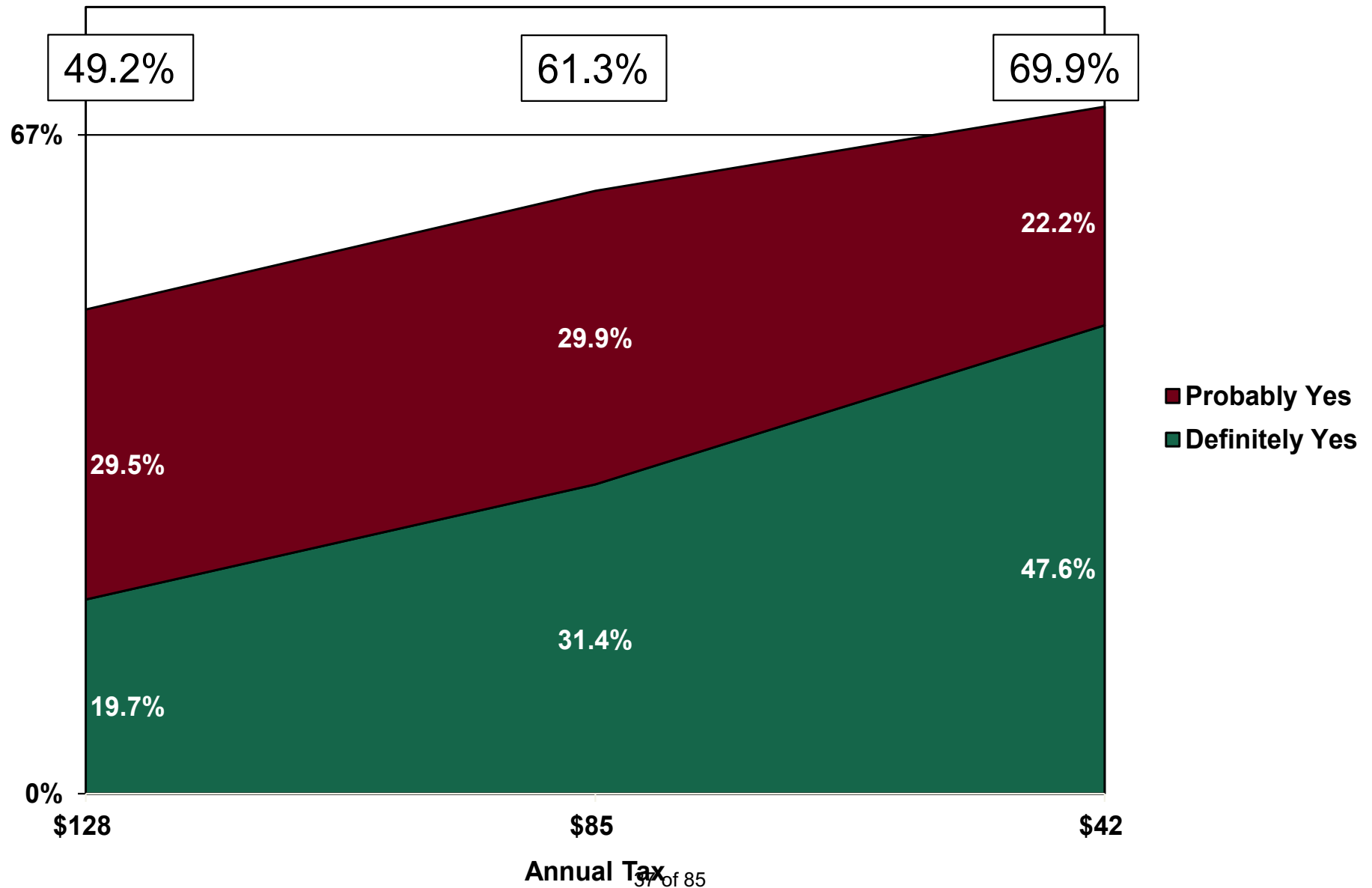
Shall City of San Bruno adopt a measure to:

- upgrade fire stations ensuring operation during earthquakes/ natural disasters;
- modernize the San Bruno Library for children, teen, adult and senior services/ programs;
- improve neighborhood parks, ballfields and playgrounds for safe, clean places to play; and
- repair deteriorating storm drains to prevent flooding and water pollution;

by authorizing \$124 million dollars in bonds, at legal rates, levying 3 cents per \$100 assessed value while bonds are outstanding, generating \$6.6 million dollars annually, with citizen oversight?

Q6. Support for Different Rates

Likely November 2022 Voters



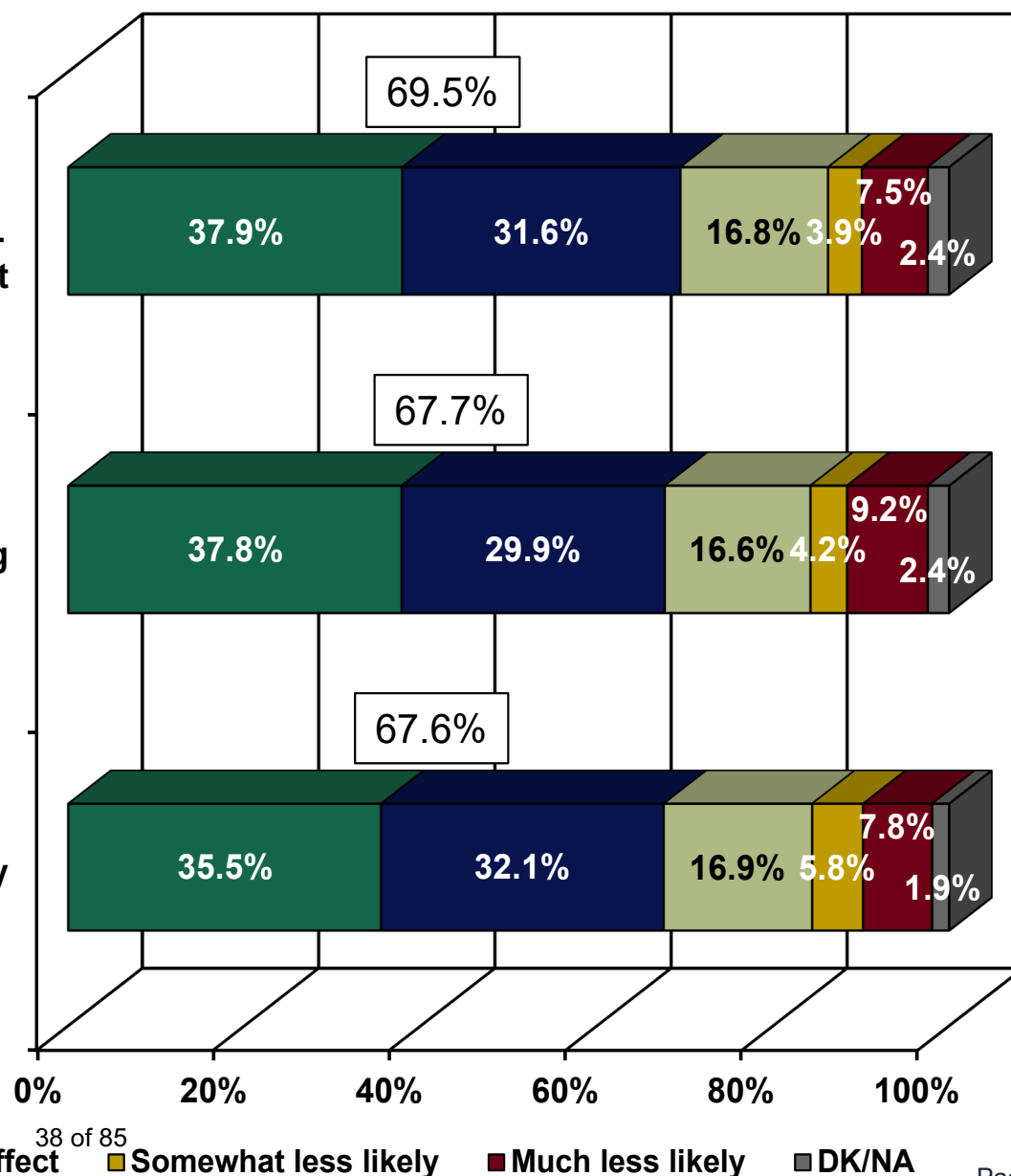
Q7. Features of the Measure: Fire Stations

Likely November 2022 Voters

E. Upgrade fire stations to accommodate modern fire-fighting and life-saving emergency medical equipment

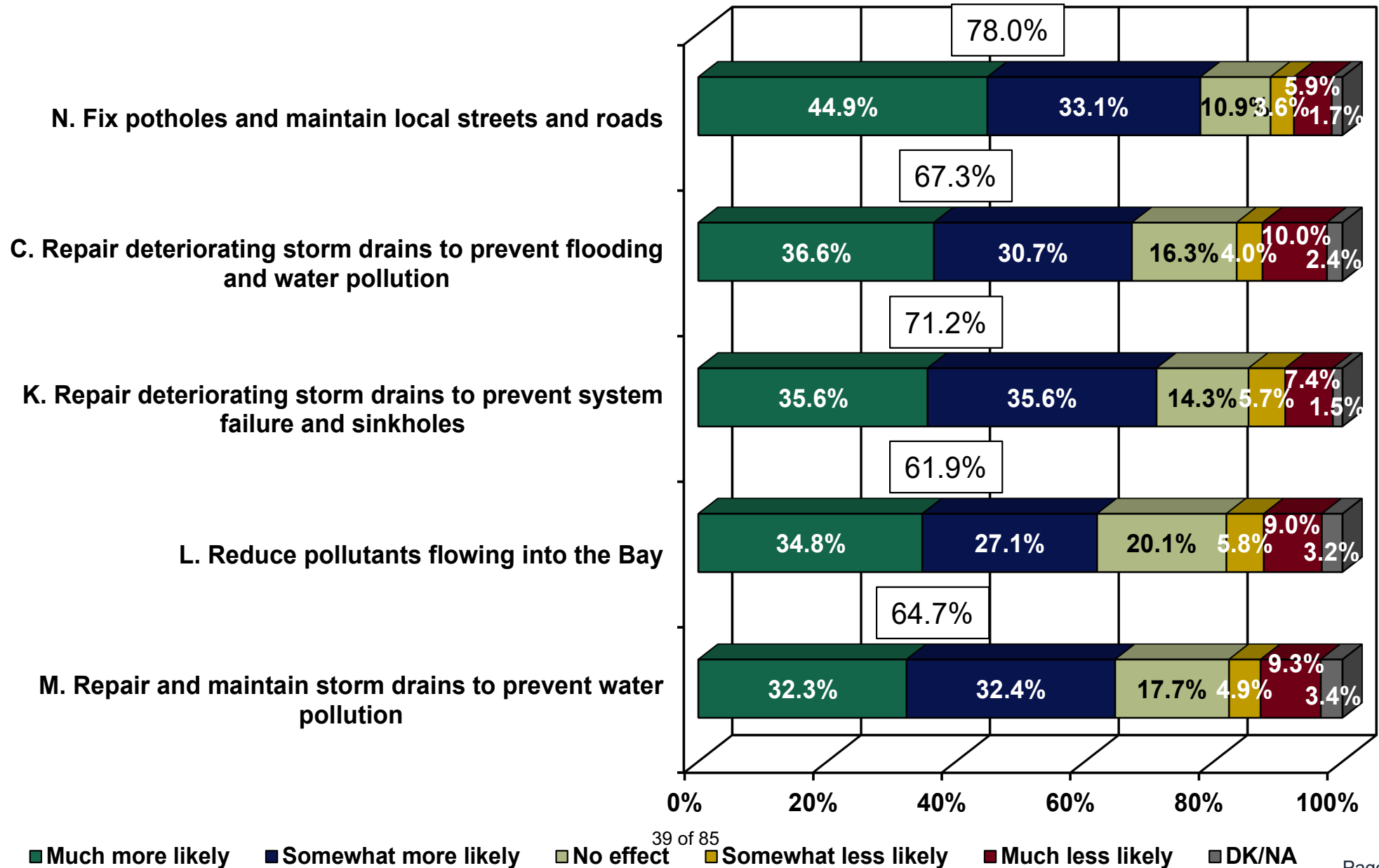
A. Upgrade fire stations ensuring operation during earthquakes and natural disasters

D. Upgrade fire stations to ensure rapid emergency response times



Q7. Features of the Measure: Storm Drains and Streets

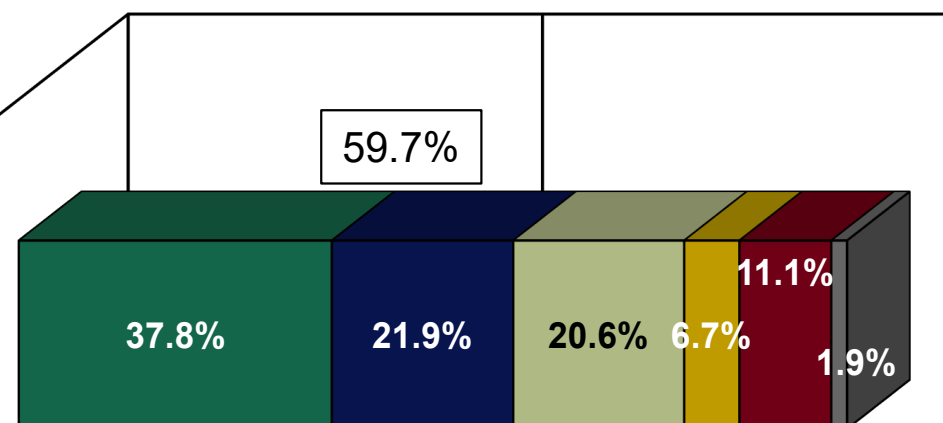
Likely November 2022 Voters



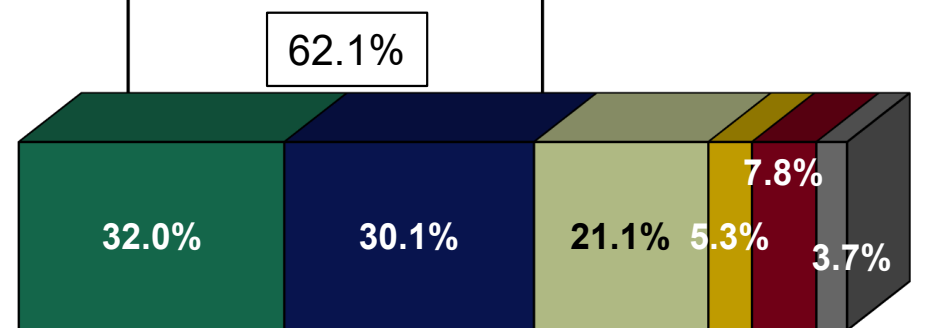
Q7. Features of the Measure: Parks

Likely November 2022 Voters

O. Improve neighborhood parks, ballfields and playgrounds for safe, clean places to play



P. Improve neighborhood parks and playgrounds for safe, clean places to play



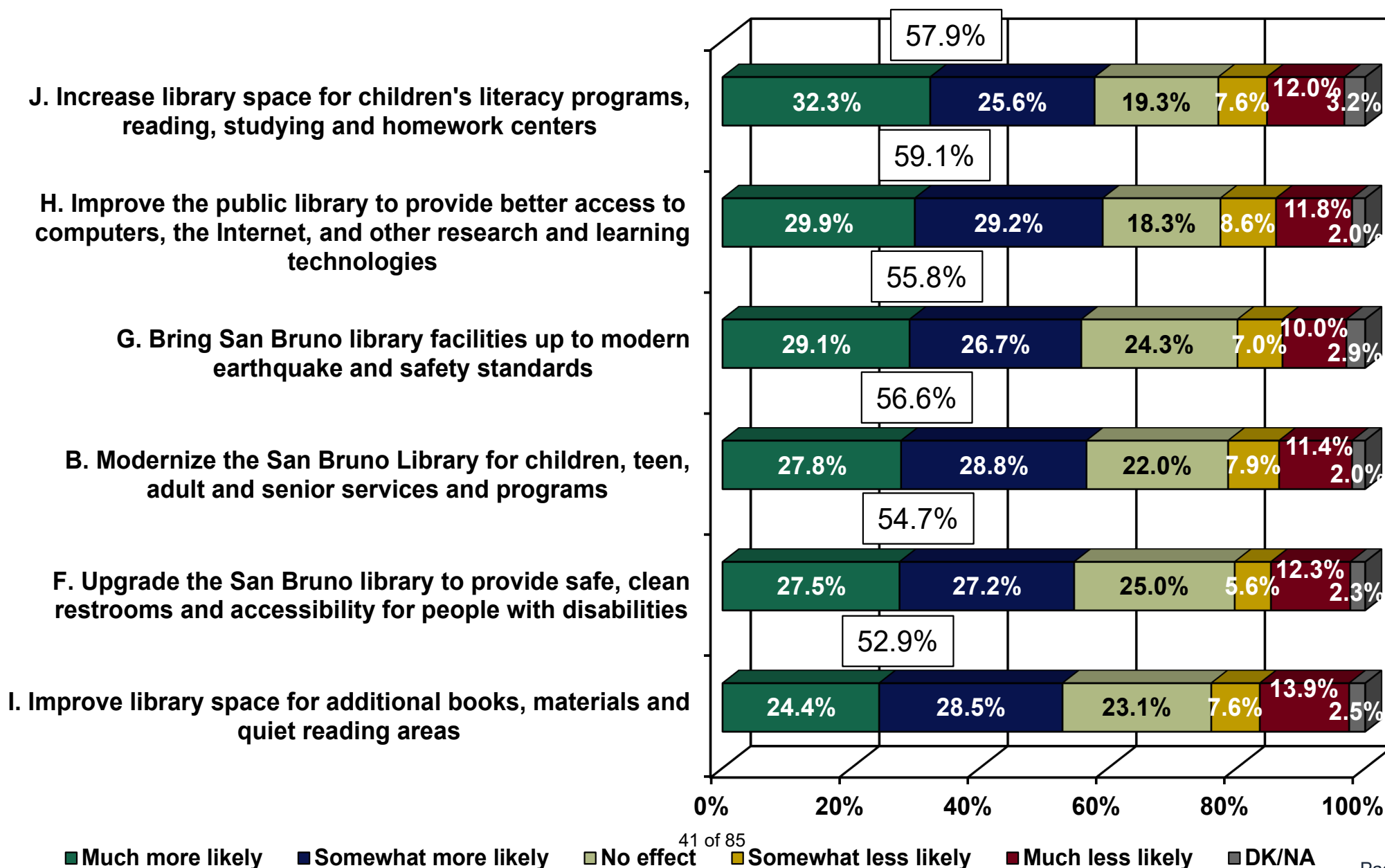
0% 50% 100%

■ Much more likely ■ Somewhat more likely ■ No effect ■ Somewhat less likely ■ Much less likely ■ DK/NA

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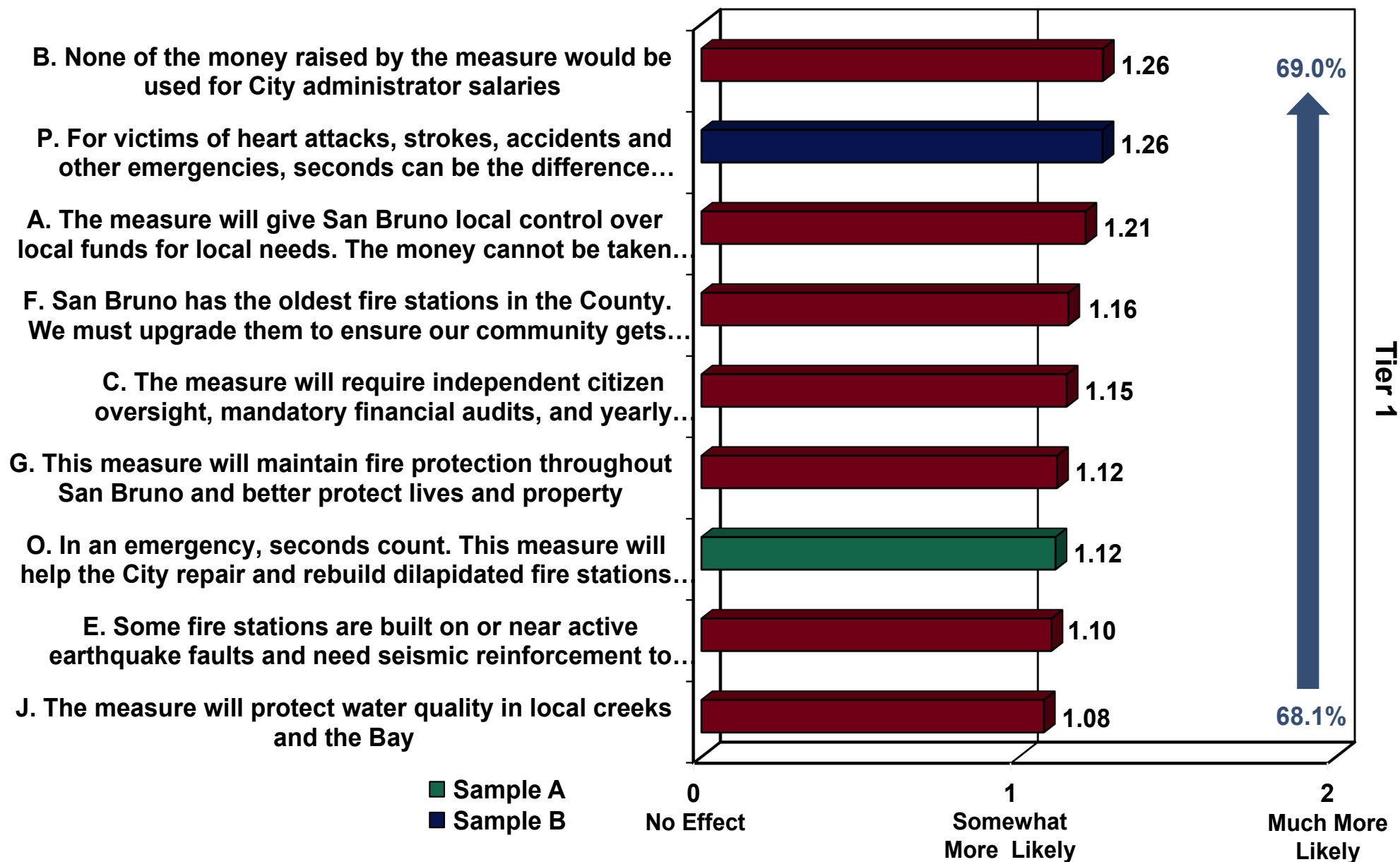
Q7. Features of the Measure: Library

Likely November 2022 Voters



Q8. Informational Statements I

Likely November 2022 Voters

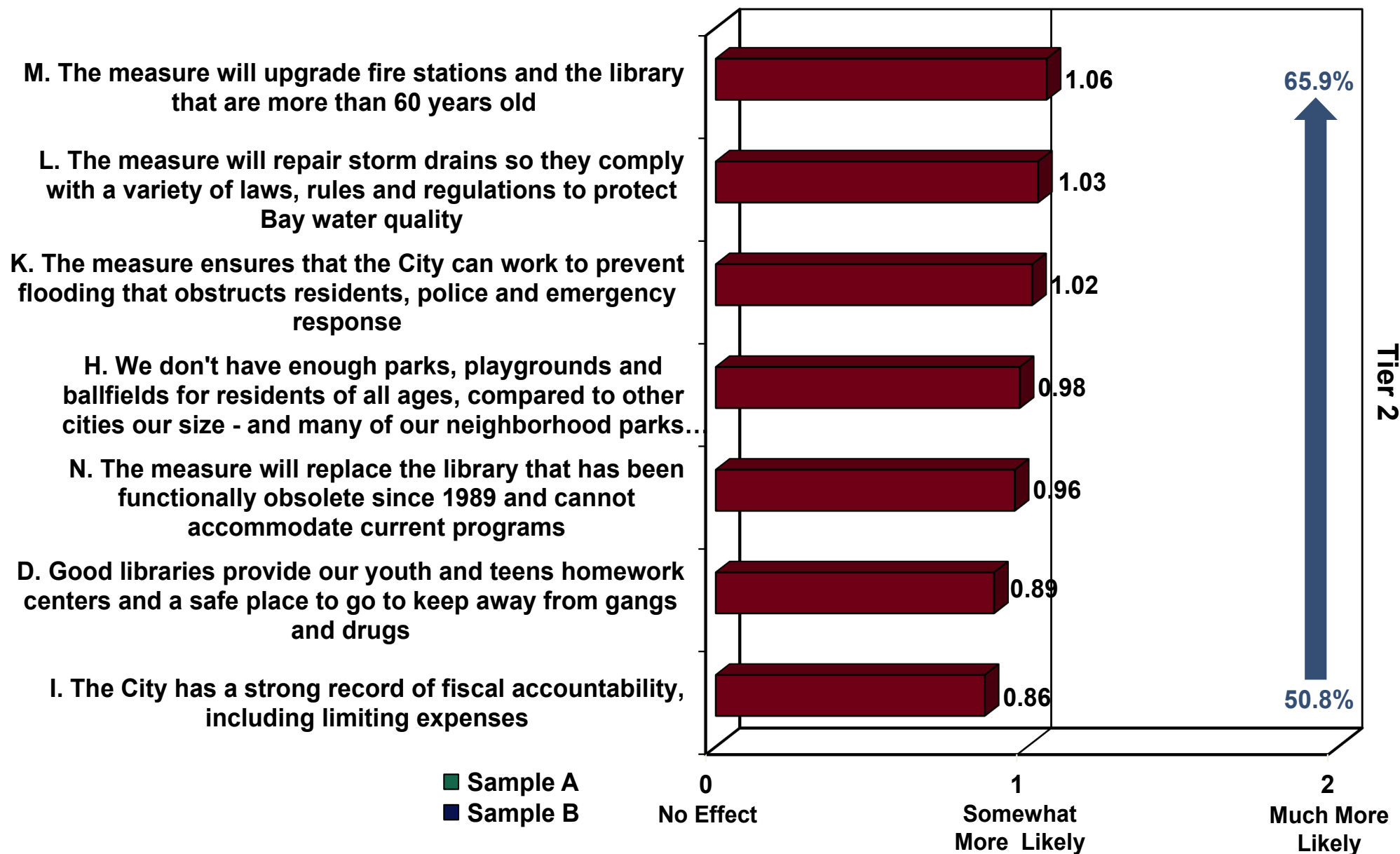


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Note: The above rating questions have been abbreviated for charting purposes, and responses were recoded to calculate mean scores: "Much More Likely" = +2, "Somewhat More Likely" = +1, and "No Effect" = 0.

Q8. Informational Statements II

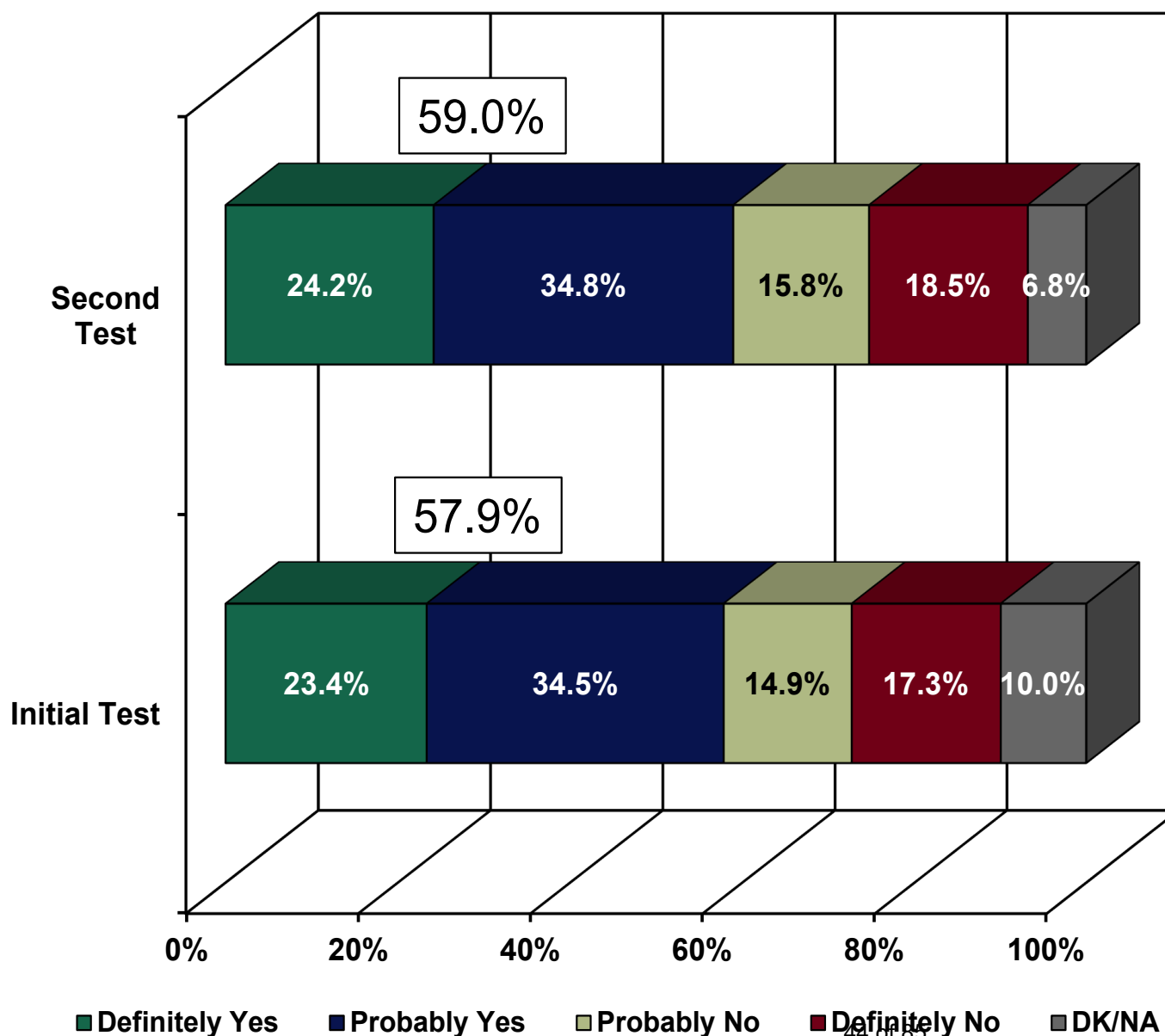
Likely November 2022 Voters



Note: The above rating questions have been abbreviated for charting purposes, and responses were recoded to calculate mean scores: "Much More Likely" = +2, "Somewhat More Likely" = +1, and "No Effect" = 0.

Q9. Second Test of Support for Bond Measure

Likely November 2022 Voters

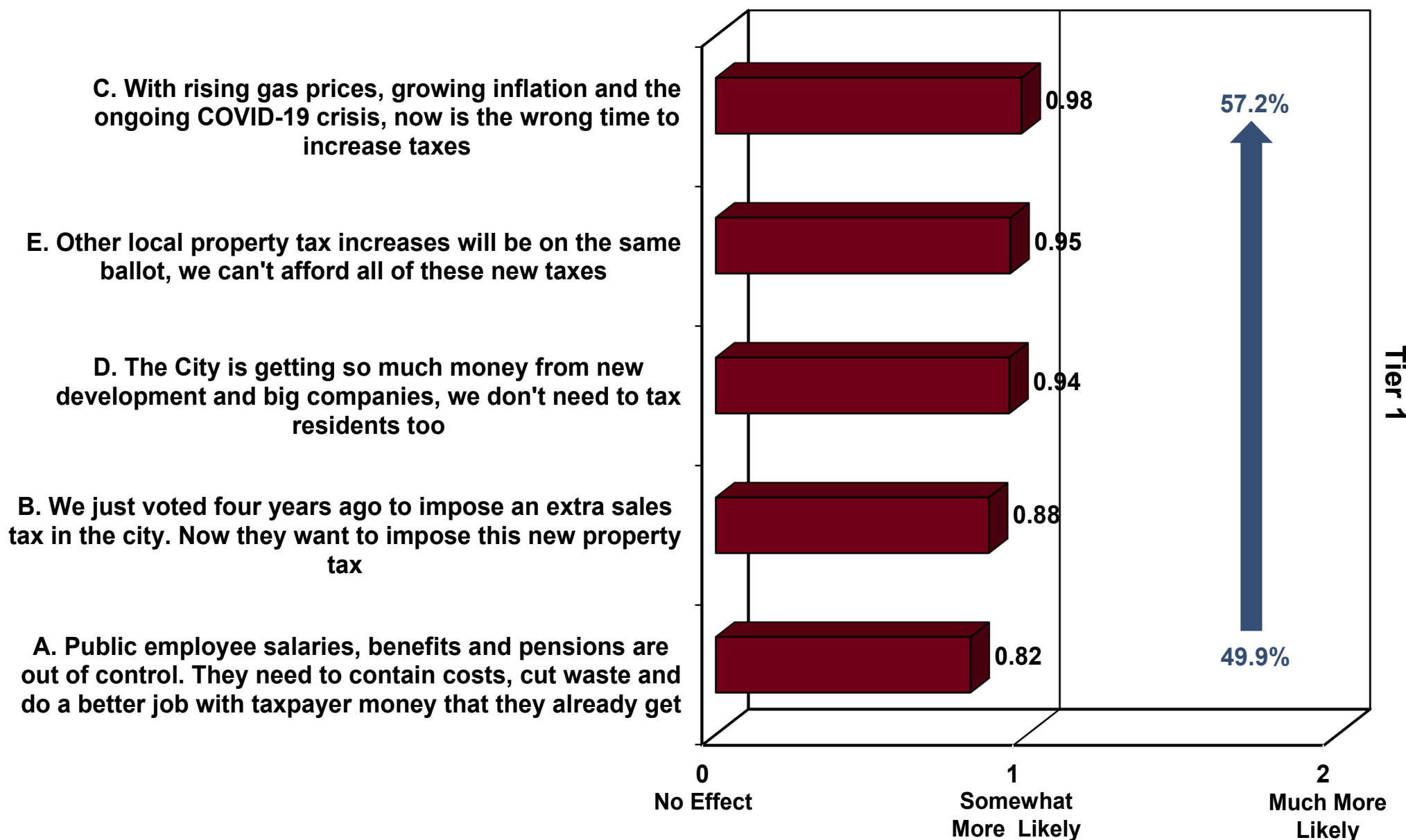


Shall City of San Bruno adopt a measure to:

- upgrade fire stations ensuring operation during earthquakes/ natural disasters;
- modernize the San Bruno Library for children, teen, adult and senior services/ programs;
- improve neighborhood parks, ballfields and playgrounds for safe, clean places to play; and
- repair deteriorating storm drains to prevent flooding and water pollution;

by authorizing \$124 million dollars in bonds, at legal rates, levying 3 cents per \$100 assessed value while bonds are outstanding, generating \$6.6 million dollars annually, with citizen oversight?

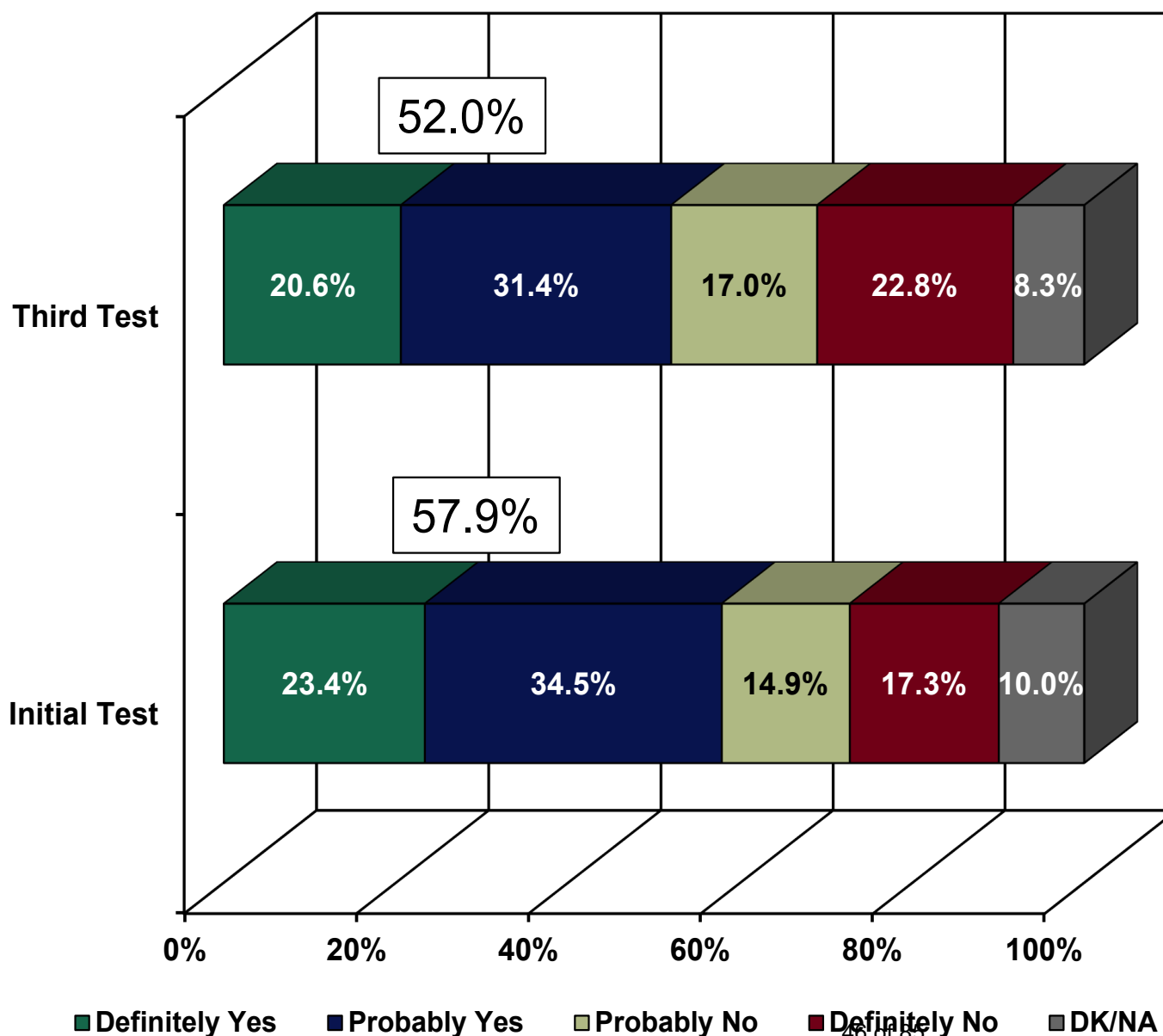
Q10. Critical Statements Likely November 2022 Voters



Note: The above rating questions have been abbreviated for charting purposes, and responses were recoded to calculate mean scores: "Much More Likely" = +2, "Somewhat More Likely" = +1, and "No Effect" = 0.

Q11. Third Test of Support for Bond Measure

Likely November 2022 Voters



Shall City of San Bruno adopt a measure to:

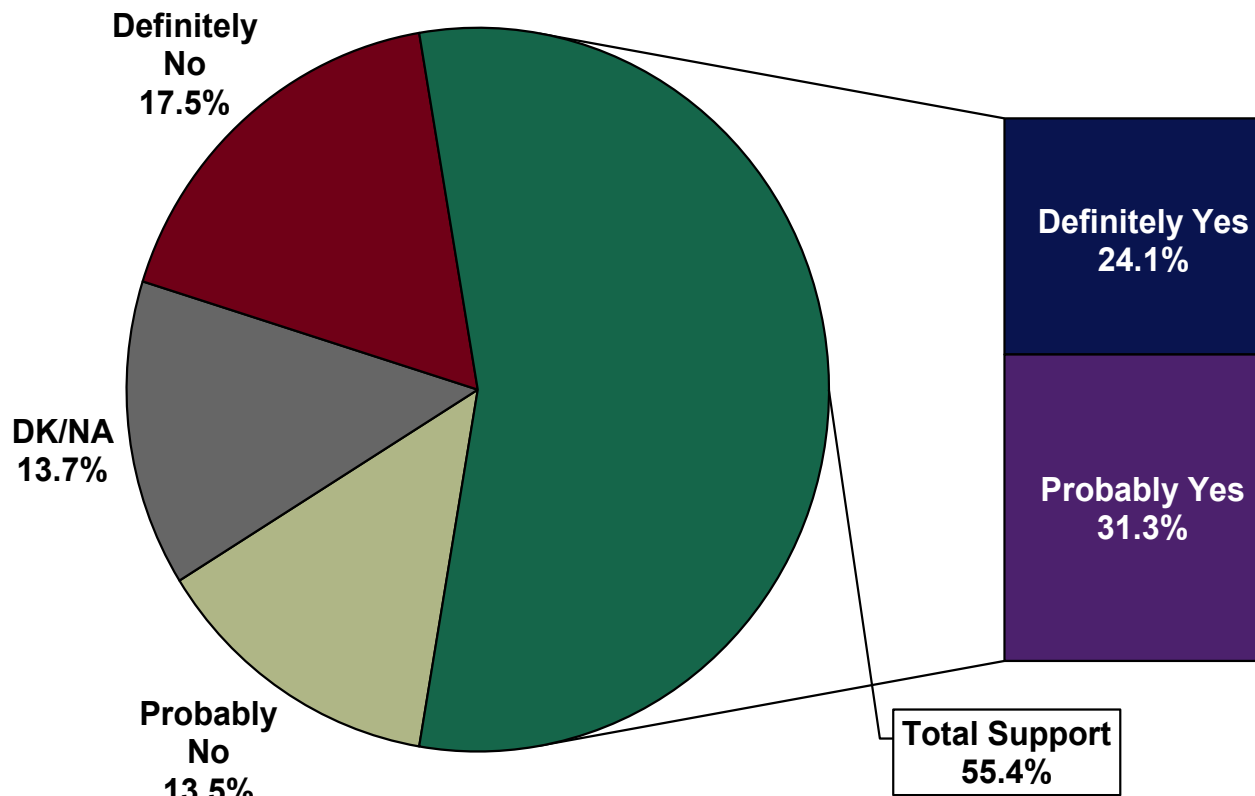
- upgrade fire stations ensuring operation during earthquakes/ natural disasters;
- modernize the San Bruno Library for children, teen, adult and senior services/ programs;
- improve neighborhood parks, ballfields and playgrounds for safe, clean places to play; and
- repair deteriorating storm drains to prevent flooding and water pollution;

by authorizing \$124 million dollars in bonds, at legal rates, levying 3 cents per \$100 assessed value while bonds are outstanding, generating \$6.6 million dollars annually, with citizen oversight?

Average 2nd + 3rd Tests = 55.5%

Q12. Support for Commercial Real Estate Property Transfer Tax Measure

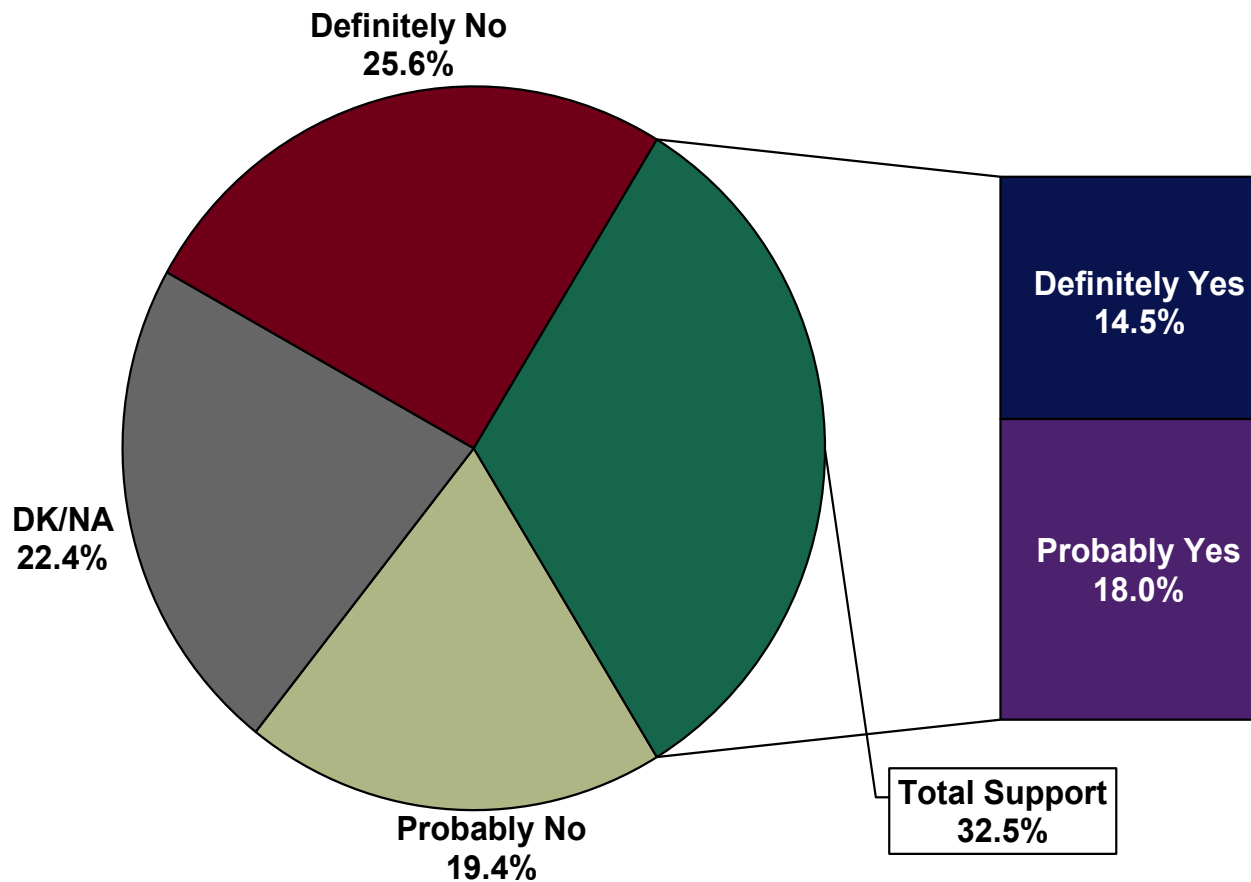
Likely November 2022 Voters



To maintain critical city services and improve city facilities, shall a measure be adopted establishing San Bruno as a Charter City and establishing an ongoing 1 percent commercial real estate property transfer tax, paid by buyers or sellers of commercial property, exempting single family homes and multi-family buildings up to, and including, 4 units, providing an estimated \$1 million dollars annually, all benefiting San Bruno?

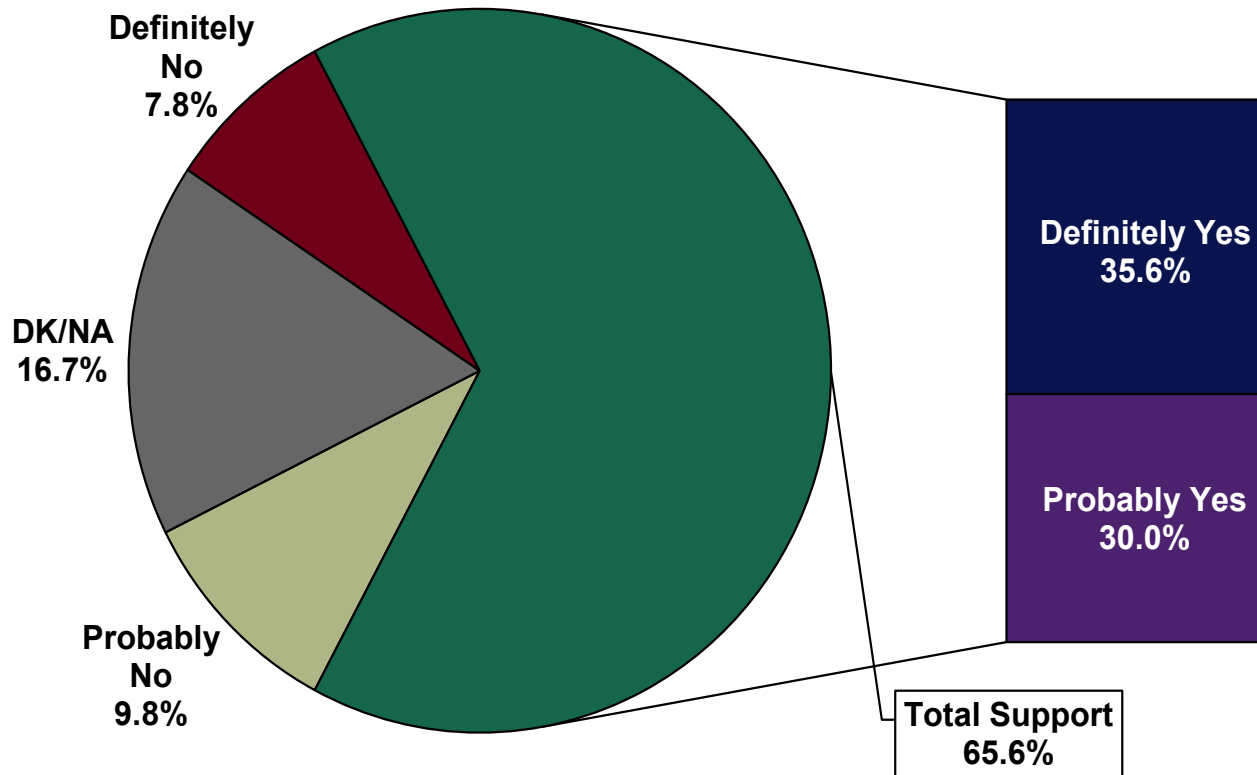
Q13. Support for Amendment to Rotate Mayor Position Among Council Members

Likely November 2022 Voters



Shall the City of San Bruno Municipal Code be amended to repeal the direct election of the Mayor and rotate the Mayor position among Council Members?

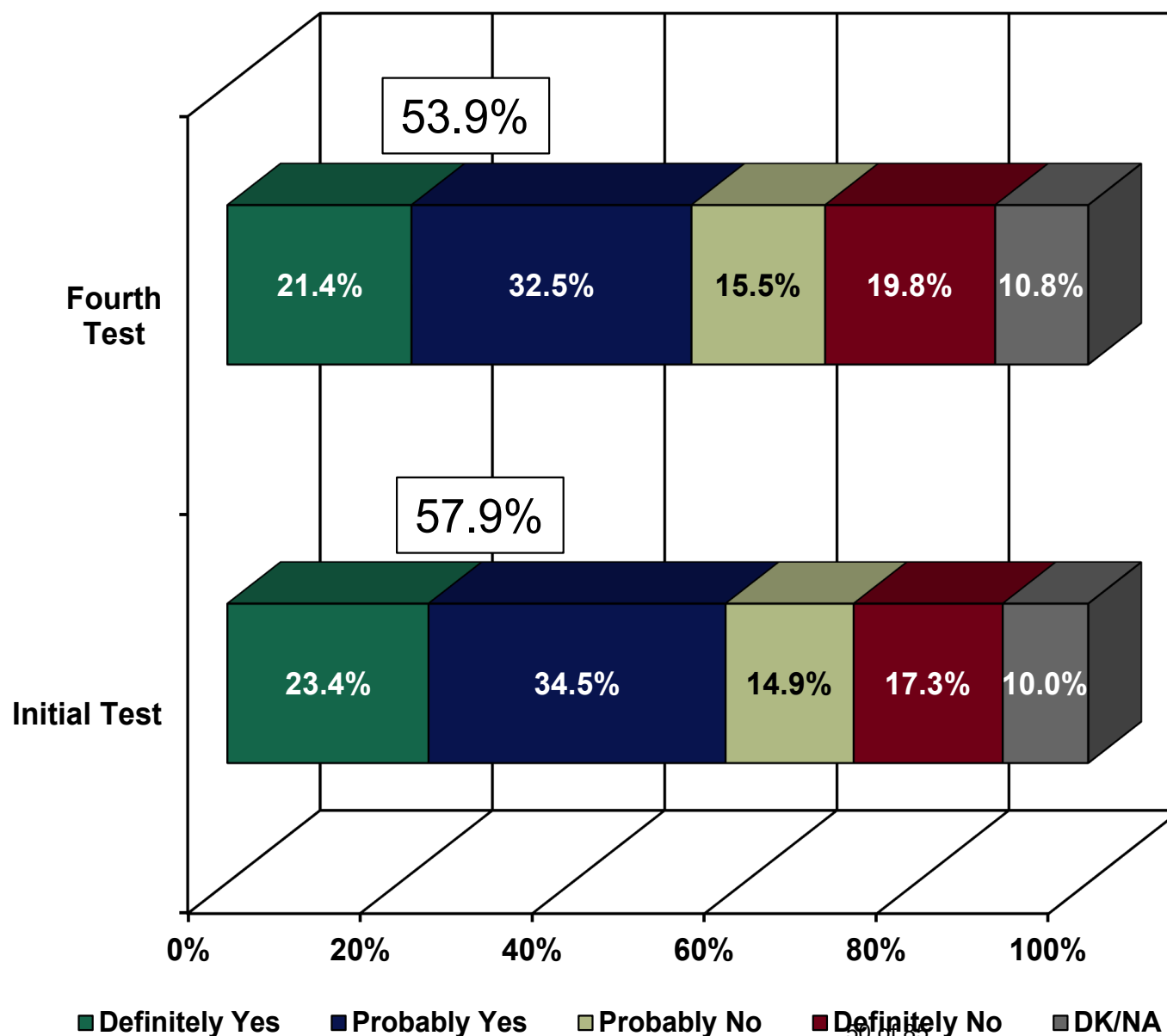
Q14. Support for Amendment to Establish Term Limits for Council Members and Mayor Likely November 2022 Voters



Shall the City of San Bruno Municipal Code be amended to limit service on the City Council to three consecutive 4-year terms, thereby establishing a limit of 12 consecutive years for all councilmembers and the mayor?

Q15. Fourth Test of Support for Bond Measure

Likely November 2022 Voters



Shall City of San Bruno adopt a measure to:

- upgrade fire stations ensuring operation during earthquakes/ natural disasters;
- modernize the San Bruno Library for children, teen, adult and senior services/ programs;
- improve neighborhood parks, ballfields and playgrounds for safe, clean places to play; and
- repair deteriorating storm drains to prevent flooding and water pollution;

by authorizing \$124 million dollars in bonds, at legal rates, levying 3 cents per \$100 assessed value while bonds are outstanding, generating \$6.6 million dollars annually, with citizen oversight?

Conclusions

- The bond measure as-tested does not appear viable this year at the required 2/3 voter approval threshold
- Residents are price-sensitive as regards a potential future bond measure
- Strong majorities of voters do prioritize important capital improvements
- San Bruno residents prioritize funding for streets and roads, fire stations, storm drains, parks and libraries, in that order
- Commercial transfer tax/Charter measure is viable for 2022; slight adjustments might be recommended to the ballot language



GODBE RESEARCH
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www.godberesearch.com

California and Corporate Offices
1220 Howard Avenue, Suite 250
Burlingame, CA 94010

Nevada Office
59 Damonte Ranch Parkway, Suite B309
Reno, NV 89521



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: June 7, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

SUBJECT: Conduct First Public Hearing Regarding Proposed City Charter and Commercial Real Property Transfer Tax

BACKGROUND: As part of the City Council's strategic planning sessions, the City Council has discussed becoming a charter city to assure on-going fiscal stability by implementing a commercial real property transfer tax, which only charter cities are authorized to levy. This staff report summarizes the progress to date, including the results of the March 29, 2022 City Council Study Session, outlines the general characteristics of a charter city, and the process that the City Council may use to present a charter to the voters, as required by state law, which contains a commercial real property transfer tax as an integral feature. This meeting also constitutes the first of two public hearings that the City Council is required to conduct before the City Council can place the charter on the ballot.

General Law Cities vs. Charter Cities

In California, there are two types of cities: general law cities and charter cities. General law cities get their corporate powers from the general laws passed by the State legislature. Charter cities, on the other hand, get their corporate powers from the California Constitution's home rule provision, which allows them to preside over all "municipal affairs," limited only by their own charters and State law on "matters of statewide concern." Attachment 1 highlights the features of general law and charter cities.

Unfortunately, the California Constitution does not define "municipal affairs." What constitutes a municipal affair has been interpreted by the courts on a case-by-case basis. The League of California Cities created a detailed chart that is attached, which describes various municipal issues and applicability to general law and charter cities.

Courts have found the following to constitute municipal affairs:

- The form of city government.
- Procedural aspects of resolution and ordinance adoption.
- Local elections, including qualifications for office and public funding of campaigns.
- Some aspects of zoning and land use.
- The process of contracting for public works.

- Scope of authority related to taxes and assessments.

Over time, the differences between general law cities and charter cities have been reduced. For instance, the Legislature has extended to general law cities many of the same powers as charter cities. In addition, the Legislature has characterized many laws affecting cities as matters of statewide concern, and hence, applicable to all cities, both general law and charter.

Generally, a matter is of “statewide concern,” as opposed to a “municipal affair,” when its impact is “primarily regional,” even if its impacts are not truly statewide. The following is a list of matters determined by the courts to be matters of “statewide concern” and hence not amenable to modification by charter:

- Educational school systems
- Traffic and vehicle regulations
- Tort claims against a governmental entity
- The Ralph M. Brown Act open meetings law
- The Meyers-Milias-Brown Act regarding employee organization
- The California Environmental Quality Act
- The exercise of the eminent domain power

One of the primary tangible benefits of becoming a charter city is the ability to implement a real property transfer tax. General law cities are not legally authorized to impose real property transfer taxes.

Process to Become a Charter City

To become a charter city, a city must adopt a charter. The California Constitution authorizes the voters to adopt a city charter. There are two ways to draft a charter: (1) the City Council drafts the charter; or (2) the City’s voters elect a charter commission to draft the charter. (Gov. Code, §§ 34451, 34458.) In either case, the charter is not adopted by the City until it is ratified by a majority vote of the City’s voters at a statewide regular election. (Gov. Code, §§34457, 34458.) To streamline the process, the City Council has directed staff to propose a charter for consideration and approval by the City Council, which would then be placed before the voters at the November 2022 general election. There is therefore no need to create a charter commission.

After the proposed charter has been drafted by the City Council, it may be sent to the voters for ratification at the next established statewide general election, provided there are at least 88 days remaining before the election. (Gov’t Code § 34458.) Before a proposal to adopt a charter is submitted to the voters, the City Council must hold at least two public hearings on the proposal of a charter and the content of the proposed charter. Notice of the public hearings shall be given by publication twice in a newspaper designated by the City Council and circulated throughout the city, and by posting notice in three public places within the city at least 21 calendar days prior to the date of each public hearing. The second public hearing shall be held at least 30 days after the first public hearing. At least one of the public hearings shall be held outside of normal

business hours to facilitate public participation. The City Council shall not conduct a vote on whether to approve the submission to the voters of the proposal to adopt a charter until 21 days after the second public hearing. (Gov. Code, § 34458.) If the charter includes a tax, as this charter is proposed to do, then a 2/3 majority of the City Council, or four affirmative votes, are needed to place the charter on the ballot per Government Code section 53734(b). A simple majority of voters must vote in favor of the proposed charter for the charter and tax to be adopted. (Gov. Code, § 34459.)

On April 12, 2022, the City Council appointed a subcommittee consisting of Vice-Mayor Mason and Councilmember Marty Medina to discuss conducting a survey of likely voters regarding the contents of a proposed charter, and specifically a commercial real property transfer tax. The survey results conducted by a polling firm retained by the City revealed support for such a measure.

DISCUSSION:

Contents of Proposed Charter

General provisions

While there are no particular provisions required to be in a city charter, cities often reserve the greatest amount of power possible when they adopt charters. Under the California Constitution, it is sufficient to provide in any city charter that the city governed under it may make and enforce all ordinances and regulations regarding municipal affairs, subject only to restrictions and limitations provided in the charter. (Cal. Const. art. XI, § 5, subd. (b).)

At the March 29, 2022 study session, the City Council determined that the proposed charter should not include provisions implementing a rotational mayor, term limits, campaign contribution limits, or alternative voting mechanisms. The City Council directed that staff continue working on separate ballot measures for November 2022 to transition to a rotational mayor and to implement term limits. The City Council also directed that staff prepare an ordinance for City Council consideration implementing campaign contribution limits, and that staff should discontinue efforts at this time to explore alternative voting mechanisms.

Accordingly, staff recommends a charter that generally provides that the City will follow California law in all areas except those stated in the charter; and specifically that the charter should authorize the City to implement a commercial real property transfer tax if approved by the voters as an integral part of the charter. A draft charter is provided as Attachment 2. This procedure links the required voter approval of the charter to the required voter approval of the tax, so that both would be approved or disapproved in one ballot measure, avoiding the problem of inconsistent votes on two separate ballot measures. The City of El Cerrito successfully used this strategy in adopting its charter.

However, staff has recently become aware of the possibility that a statewide initiative may qualify for the November 2022 ballot, which if adopted by the voters could substantially affect many taxes, rates, and fees adopted by local agencies. If the initiative does qualify for the ballot, it is unclear whether it would affect the validity of a tax enacted as part of a newly adopted charter. To mitigate this potential risk, the City Council could consider placing a separate tax measure on the ballot, but as explained above, this creates the possibility that voters could adopt the charter but not the tax. Placing the tax on the ballot as a separate measure would require four affirmative votes of the City Council, while placing the charter on the ballot without an integral tax would require three affirmative votes of the City Council. As more information will become available regarding whether the statewide measure will qualify for the November 2022 ballot, staff has proceeded with drafting the charter to include an integral commercial real property transfer tax, as previously directed by the City Council.

Prevailing Wage

One additional topic addressed in the charter is prevailing wage, which state law requires contractors to pay on most public projects. Charter cities are not bound by state prevailing wage requirements when exclusively municipal projects are undertaken and state and federal funds are not involved. (Vial v City of San Diego (1981) 122 CA3d 346; see Labor Code §1771.) The California Supreme Court held that a charter city may exempt itself from the state's prevailing wage requirements on the city's locally funded public works projects because the wage levels of contract workers constructing locally funded public works are a "municipal affair." (State Bldg. & Constr. Trades Council v City of Vista (2012) 54 C4th 547.) However, Labor Code section 1782 prohibits charter cities from receiving or using state funding or financial assistance for construction projects if the charter city has a charter provision or ordinance authorizing noncompliance with state prevailing wage laws, or if it has awarded a public works contract within the prior 2 years that did not require compliance with prevailing wage requirements. Limited exceptions apply to funding or contracts awarded before January 1, 2015, and for certain contracts of \$25,000 or less. Labor Code section 1782 was upheld against a home rule challenge by a number of charter cities. (City of El Centro v Lanier (2016) 245 CA4th 1494.) Because the City has a strong history of supporting prevailing wage on all qualifying public projects, and to avoid uncertainty or legal challenges in the future, staff recommends including a provision in the charter confirming that the City will continue to require payment of prevailing wage per the state law applicable to general law cities.

Details and Structure of Commercial Real Property Transfer Tax

A real property transfer tax is a tax on the sale of property that is paid when real property is conveyed, and is based on the value of the property. As noted above, only charter cities are authorized by state law to impose such a tax. This tax is distinguished from the similarly-named documentary transfer tax that the county has adopted, and

which all cities thereby became authorized to impose by ordinance. The City's documentary transfer tax is codified in Municipal Code section 3.36, which since at least since 1980, has imposed the tax at the maximum legally authorized rate of \$.55 per \$1,000 of value.

Charter cities, in enacting their own laws, may enact a real property transfer tax in place of a documentary transfer tax and provide exemptions of certain property sales. The City Council has previously directed that staff consider a real property transfer tax only on the sale of commercial properties and not on the sale of residential properties. Payment of the tax could be negotiated between buyer and seller. The tax would be owed at the time of sale of the commercial real property. The tax would be collected by the City. Both the City Charter and the tax would be approved if the ballot measure receives at least a simple majority vote of affirmative votes.

Charter cities in the Bay Area opt for a wide range of fixed and variable property transfer tax rates. In response to the City Council's direction to consider a real property transfer tax only on the sale of commercial properties, staff has analyzed the potential revenue scenarios under various options. Given the inherent difficulties with projecting the level of commercial sales activity and sale prices going forward, staff has analyzed the potential revenue that the City would have received in each of the prior 5 years based on actual sale transactions in San Bruno based on the transfer tax rates of 1%. The analysis concluded that the City would have collected annual property transfer taxes of approximately \$1.1 million, if adopting the property transfer tax rates of our neighboring cities over the last 5 years.

It is important to note that property transfer tax revenue is an elastic revenue source in that it is highly influenced by economic shifts that affect the real estate market (e.g. interest rates, inflation, recessions, economic growth cycles, consumer confidence, local construction activity, etc.).

The City Council will need to specify a specific definition for commercial properties that will be subject to the proposed transfer tax. The term "commercial property" should not be interpreted to automatically exclude all residential dwellings. In simple terms, commercial real estate is a property that has the potential to generate profit through capital gain or rental income. A commercial property can be anything from an office building to a residential duplex, or even a restaurant or warehouse.

Based on prior City Council direction, and for the purposes of the attached Property Transfer Tax Simulation Analysis, City staff defined a commercial property as any transaction involving:

- Commercial Property (office building, hotel, retail structure, etc.)
- Industrial Property (warehouses, manufacturing building, etc.)
- Multifamily Housing Dwelling of 5 units or greater
- Planned Unit Development by Residential Developers
- Vacant Land

Common property tax exemptions, such as those for religious and government properties, would apply to this definition.

Next Steps

As noted above, this is the first of two required public hearings regarding the contents of the proposed charter, with the second public hearing scheduled for June 28. Because 30 days must elapse between the second public hearing and the City Council's decision to place the charter on the ballot, the City Council will need to schedule a special meeting on August 2 to take this action. The deadline for submitting ballot measures to the County for the November 8 election is August 12.

In summary, staff requests that the City Council provide direction at this meeting regarding whether at least four members of the City Council want to propose a charter measure to the voters at the November 2022 election, which would include an integral commercial real property transfer tax.

FISCAL IMPACT: On March 9, 2022, the County elections office provided staff with an estimated range of \$93,000-\$112,000 for the upcoming municipal election plus one ballot measure. The County estimated that each additional ballot measure would add approximately \$10,000 to the cost of the election.

ENVIRONMENTAL IMPACT: There is no environmental impact. The action is not a project subject to CEQA. City Council's action is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

RECOMMENDATION: Conduct First Public Hearing Regarding Proposed City Charter and Commercial Real Property Transfer Tax

ALTERNATIVES:

1. Propose changes to the timing or recommended focus of the draft charter.
2. Do not move forward with a draft charter.

ATTACHMENTS:

1. League of California Cities Charter Analysis
2. Draft City Charter

Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

Introduction

Charter Cities

Did you know that, under certain home rule provisions in California's state constitution, voters can exercise a greater degree of local control than that provided by the California Legislature? Becoming a charter city allows voters to determine how their city government is organized and, with respect to municipal affairs, enact legislation different than that adopted by the state.

In 2001, the Institute for Local Government, the League's research arm, teamed up with the Hastings Public Law Research Institute to create an informational resource for those interested in understanding more about this special form of local control. The League is grateful to everyone who helped with this project including Phillip Hall of UC Hastings and the Hastings Public Law Research Institute; Karl Berger of Jenkins & Hogin LLP; Betsy Strauss (Attorney at Law); John Cook (Former City Attorney, Indian Wells); and Harvey Levine (City Attorney, Fremont). In 2007, the League updated these resources and the new documents can be found below. The League would like to thank Hilda Cantú Montoy (Attorney at Law) for her help with the update.

Charter Cities: A Quick Summary for the Press and Researchers

The following summary was drafted by the League of California Cities' legal staff, in an attempt to give the press and research communities a primer on some frequently asked questions regarding charter cities.

Charter Cities vs. General Law Cities – The Basics

The California Constitution gives cities the power to become charter cities.¹ The benefit of becoming a charter city is that charter cities have supreme authority over “municipal affairs.”² In other words, a charter city's law concerning a municipal affair will trump a state law governing the same topic.³

Cities that have not adopted a charter are general law cities. General law cities are bound by the state's general law, even with respect to municipal affairs. Of California's 478 cities, 108 of them are charter cities.

The charter city provision of the State Constitution, commonly referred to as the “home-rule” provision, is based on the principle that a city, rather than the state, is in the best position to know what it needs and how to satisfy those needs.⁴ The home-rule provision allows charter cities to conduct their own business and control their own affairs.⁵ A charter maximizes local control.

A city charter, in effect a city's constitution, need not set out every municipal affair the city would like to govern. So long as the charter contains a declaration that the city intends to avail itself of the full power provided by the California Constitution, any city ordinance that regulates a municipal affair will govern over a general law of the state.⁶

Defining ‘Municipal Affairs’

Determining what is and is not a “municipal affair” is not always straightforward. The California Constitution does not define “municipal affair.” It does, however, set out a nonexclusive list of four “core”

Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

categories that are, by definition, municipal affairs.⁷

These categories are 1) regulation of the “city police force”; 2) “subgovernment in all or part of a city”; 3) “conduct of city elections”; and 4) “the manner in which . . . municipal officers [are] elected.”⁸ Beyond this list, it is up to the courts to determine what is and is not a municipal affair.

To determine if a matter is a municipal affair, a court will ask whether there are good reasons, grounded on statewide interests, for the state law to preempt a local law.⁹ In other words, courts will ask whether there is a need for “paramount state control” in the particular area of law.¹⁰ The Legislature’s intent when enacting a specific law is not determinative.¹¹

The concept of “municipal affairs” is fluid and may change over time.¹² Issues that are municipal affairs today could become areas of statewide concern in the future.¹³ Nonetheless, there are some areas that courts have consistently classified as municipal affairs. These include:

- Municipal election matters¹⁴
- Land use and zoning decisions (with some exceptions)¹⁵
- How a city spends its tax dollars¹⁶
- Municipal contracts, provided the charter or a city ordinance exempts the city from the Public Contract Code, and the subject matter of the bid constitutes a municipal affair.¹⁷ Thus, a charter may exempt a city from the State’s competitive bidding statutes.

Likewise, there are some areas that courts have consistently classified as areas of statewide concern, including:

- Traffic and vehicle regulation¹⁸
- Tort claims against a governmental entity¹⁹
- Regulation of school systems²⁰

How to Become a Charter City

To become a charter city, a city must adopt a charter. There are two ways to adopt a charter:

- The city’s voters elect a charter commission.²¹ The commission has the responsibility of drafting and debating the charter.
- The governing board of the city, on its own motion, drafts the charter.²²

In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city’s voters.²³

For more information about charter cities, please visit the “Charter Cities” section of the League’s Web site at <http://www.cacities.org/chartercities>.

¹ Cal. Const. art. XI, § 3(a).

² Cal. Const. art. XI, § 5(a).

³ *Johnson v. Bradley*, 4 Cal. 4th 389, 399 (1992).

⁴ *Fragley v. Phelan*, 126 Cal. 383, 387 (1899).

⁵ *Id.*

Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

⁶ There are some exceptions to this rule. For example, a charter city is bound by the Public Contract Code unless the city's charter expressly exempts the city from the Code's provisions or a city ordinance conflicts with a provision in the Code. See Cal. Pub. Cont. Code § 1100.7.

⁷ Cal. Const. art. XI, § 5(b); *Johnson*, 4 Cal. 4th at 398.

⁸ Cal. Const. art. XI, § 5(b).

⁹ *Johnson*, 4 Cal. 4th at 405.

¹⁰ *Id.* at 400.

¹¹ *Id.* at 405.

¹² *Cal. Fed. Savings & Loan Ass'n v. City of Los Angeles*, 54 Cal. 3d 1, 16 (1991); *Isaac v. City of Los Angeles*, 66 Cal. App. 4th 586, 599 (1998).

¹³ *Isaac*, 66 Cal. App. 4th at 599.

¹⁴ *Mackey v. Thiel*, 262 Cal. App. 2d 362, 365 (1968).

¹⁵ See *Brougher v. Bd. of Pub. Works*, 205 Cal. 426, 440 (1928).

¹⁶ *Johnson*, 4 Cal. 4th at 407.

¹⁷ Pub. Cont. Code § 1100.7; *R & A Vending Services, Inc. v. City of Los Angeles*, 172 Cal. App. 3d 1188, 1191 (1985); *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.*, 71 Cal. App. 4th 38, 51 (1998).

¹⁸ Cal. Veh. Code § 21.

¹⁹ *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).

²⁰ *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).

²¹ Cal. Gov't Code § 34451.

²² Cal. Gov't Code § 34458.

²³ Cal. Gov't Code §§ 34457, 34462.

General Law City v. Charter City

Characteristic	General Law City	Charter City
Ability to Govern Municipal Affairs	Bound by the state's general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over "municipal affairs." Cal. Const. art. XI, § 5(b).
Form of Government	State law describes the city's form of government. For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov't section 34871. The Government Code also authorizes the "city manager" form of government. Cal. Gov't Code § 34851.	Charter can provide for any form of government including the "strong mayor," and "city manager" forms. See Cal. Const. art. XI, § 5(b); Cal. Gov't Code § 34450 <i>et seq.</i>
Elections Generally	Municipal elections conducted in accordance with the California Elections Code. Cal. Elec. Code §§ 10101 <i>et seq.</i>	Not bound by the California Elections Code. May establish own election dates, rules, and procedures. See Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 <i>et seq.</i>
Methods of Elections	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council "by" or "from" districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov't Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov't Code §§ 34902.	May establish procedures for selecting officers. May hold at-large or district elections. See Cal. Const. art. XI, § 5(b).
City Council Member Qualifications	<p>Minimum qualifications are:</p> <ol style="list-style-type: none"> 1. United States citizen 2. At least 18 years old 3. Registered voter 4. Resident of the city at least 15 days prior to the election and throughout his or her term 5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected. <p>Cal. Elec. Code § 321; Cal. Gov't Code §§ 34882, 36502; 87 Cal. Op. Att'y Gen. 30 (2004).</p>	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att'y Gen. 6, 8 (1999).

Characteristic	General Law City	Charter City
Public Funds for Candidate in Municipal Elections	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov't Code § 85300.	Public financing of election campaigns is lawful. <i>Johnson v. Bradley</i> , 4 Cal. 4th 389 (1992).
Term Limits	May provide for term limits. Cal. Gov't Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36502 (b).
Vacancies and Termination of Office	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov't Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
Council Member Compensation and Expense Reimbursement	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. See Cal. Gov't Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.	May establish council members' salaries. See Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.
Legislative Authority	Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934. Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.	May establish procedures for enacting local ordinances. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
Resolutions	May establish rules regarding the procedures for adopting, amending or repealing resolutions.	May establish procedures for adopting, amending or repealing resolutions. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
Quorum and Voting Requirements	A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810. All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation requires supermajority votes for certain actions.	May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.

Characteristic	General Law City	Charter City
Rules Governing Procedure and Decorum	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p> <p>May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
Personnel Matters	<p>May establish standards, requirements and procedures for hiring personnel consistent with Government Code requirements.</p> <p>May have "civil service" system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov't Code § 45000 <i>et seq.</i></p> <p>Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, § 10(b).</p>	<p>May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for personnel. See Cal. Const. art. XI, § 5(b).</p> <p>Procedures set forth in Meyers-Milias-Brown Act (Cal. Gov't Code § 3500) apply, but note, "[T]here is a clear distinction between the <i>substance</i> of a public employee labor issue and the <i>procedure</i> by which it is resolved. Thus there is no question that 'salaries of local employees of a charter city constitute municipal affairs and are not subject to general laws.'" <i>Voters for Responsible Retirement v. Board of Supervisors</i>, 8 Cal.4th 765, 781 (1994).</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10(b).</p>
Contracting Services	<p>Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. See Cal. Gov't Code § 37103; <i>Carruth v. City of Madera</i>, 233 Cal. App. 2d 688 (1965).</p>	<p>Full authority to contract consistent with charter.</p> <p>May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov't Code §§ 51330, 51334, 51335.</p>

Characteristic	General Law City	Charter City
Public Contracts	<p>Competitive bidding required for public works contracts over \$5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$100,000. See Cal. Pub. Cont. Code §§ 22000, 22032.</p> <p>Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.</p>	<p>Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; see <i>R & A Vending Services, Inc. v. City of Los Angeles</i>, 172 Cal. App. 3d 1188 (1985); <i>Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.</i>, 71 Cal. App. 4th 38 (1998).</p>
Payment of Prevailing Wages	<p>In general, prevailing wages must be paid on public works projects over \$1,000. Cal. Lab. Code § 1771. Higher thresholds apply (\$15,000 or \$25,000) if the public entity has adopted a special labor compliance program. See Cal. Labor Code § 1771.5(a)-(c).</p>	<p>Historically, charter cities have not been bound by state law prevailing-wage requirements so long as the project is a municipal affair, and not one funded by state or federal grants. <i>Vial v. City of San Diego</i>, 122 Cal. App. 3d 346, 348 (1981). However, there is a growing trend on the part of the courts and the Legislature to expand the applicability of prevailing wages to charter cities under an analysis that argues that the payment of prevailing wages is a matter of statewide concern. The California Supreme Court currently has before them a case that will provide the opportunity to decide whether prevailing wage is a municipal affair or whether it has become a matter of statewide concern.</p>

Characteristic	General Law City	Charter City
Finance and Taxing Power	<p>May impose the same kinds of taxes and assessment as charter cities. See Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art.XIIIC.</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none"> • Improvement Act of 1911. Cal. Sts. & High. Code § 22500 <i>et seq.</i>. • Municipal Improvement Act of 1913. See Cal. Sts. & High. Code §§ 10000 <i>et seq.</i>. • Improvement Bond Act of 1915. Cal. Sts. & High. Code §§ 8500 <i>et seq.</i>. • Landscaping and Lighting Act of 1972. Cal. Sts. & High. Code §§ 22500 <i>et seq.</i>. • Benefit Assessment Act of 1982. Cal. Gov't Code §§ 54703 <i>et seq.</i>. <p>May impose business license taxes for regulatory purposes, revenue purposes, or both. See Cal. Gov't Code § 37101.</p> <p>May not impose real property transfer tax. See Cal. Const. art. XIII A, § 4; Cal. Gov't Code § 53725; <i>but see</i> authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. & Tax. Code § 11911(a), (c).</p>	<p>Have the power to tax.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIIIC, § 2, and own charter limitations</p> <p>May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. See <i>J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745 (1984).</p> <p>May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. See Cal. Const. art. XI, § 5.</p> <p>May impose real property transfer tax; does not violate either Cal. Const art. XIII A or California Government Code section 53725. See <i>Cohn v. City of Oakland</i>, 223 Cal. App. 3d 261 (1990); <i>Fielder v. City of Los Angeles</i>, 14 Cal. App. 4th 137 (1993).</p>
Streets & Sidewalks	State has preempted entire field of traffic control. Cal. Veh. Code § 21.	State has preempted entire field of traffic control. Cal. Veh. Code § 21.
Penalties & Cost Recovery	May impose fines, penalties and forfeitures, with a fine not exceeding \$1,000. Cal. Gov't Code § 36901.	May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. <i>County of Los Angeles v. City of Los Angeles</i> , 219 Cal. App. 2d 838, 844 (1963).

Characteristic	General Law City	Charter City
Public Utilities/Franchises	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002.</p> <p>May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.</p>	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); <i>Cal. Apartment Ass'n v. City of Stockton</i>, 80 Cal. App. 4th 699 (2000).</p> <p>May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city.</p> <p>Franchise Act of 1937 is not applicable if charter provides. Cal. Pub. Util. Code § 6205.</p>
Zoning	<p>Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.</p>	<p>Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.</p>

Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

Foundational aspects of charter cities

What is the Constitutional Framework for Charter Cities?

Article XI, section 3(a) of the California Constitution authorizes the adoption of a city charter and provides such a charter has the force and effect of state law. Article XI, section 5(a), the "home rule" provision, affirmatively grants to charter cities supremacy over "municipal affairs." However, the California Constitution does not define the term "municipal affair."

What are "Municipal Affairs?"

The home rule provision of the California Constitution authorizes a charter city to exercise plenary authority over municipal affairs, free from any constraint imposed by the general law and subject only to constitutional limitations. See Cal. Const. art. XI § 5(a); *Ex Parte Braun*, 141 Cal. 204, 209 (1903); *Bishop v. City of San Jose*, 1 Cal. 3d 56, 61 (1969); *Comm. of Seven Thousand v. Super. Ct. (City of Irvine)*, 45 Cal.3d 491 (1988).

How Do the Courts Distinguish Between Municipal and Statewide Concerns?

Whether a given activity is a municipal affair over which a city has sovereignty, or a statewide concern, over which the legislature has authority, is a legal determination for the courts to resolve. Thus, the determination of whether a given activity is a municipal affair or statewide concern is done on a case-by-case basis. The court's determination will depend on the particular facts and circumstances of each case. See *In Re Hubbard*, 62 Cal. 2d 119, 128 (1964). Keep in mind that the concept of "municipal affairs" is a fluid one that changes over time as local issues become statewide concerns. See *Issac v. City of Los Angeles*, 66 Cal. App. 4th 586 (1998).

What Activities Have the Courts Classified As Municipal Affairs?

There are some areas that the courts have consistently classified as municipal affairs. Examples include the following:

- Municipal Election Matters. See *Mackey v. Thiel*, 262 Cal. App. 2d 362 (1968).
- Procedures for Initiative, Referendum and Recall. See *Lawing v. Faul*, 227 Cal. App. 2d 23, 29 (1964).
- Procedures for Adopting Ordinances. See *Brougher v. Board of Public Works*, 205 Cal. 426 (1928).
- Compensation of City Officers and Employees. Cal. Const. art. XI, § 5(b); See *Sonoma County Organization of Public Employees v. County of Sonoma*, 23 Cal. 3d 296 (1979); but see *San Leandro Police Officers Association v. City of San Leandro*, 55 Cal. App. 3d 553 (1976) (labor relations is not a municipal affair; Charter cities are subject to the Meyers-Milias Brown Act. Cal. Gov't Code § 3500).
- Processes Associated with City Contracts. See *First Street Plaza Partners v. City of Los Angeles*, 65 Cal. App. 4th 650 (1998); but see *Domar Electric, Inc. v. City of Los Angeles*, 41 Cal. App. 4th 810 (1995) (state law establishing employment policy may preempt local regulation of bidding criteria).

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- Financing Public Improvements. See *City of Santa Monica v. Grubb*, 245 Cal. App. 2d 718 (1996).
- Making Charitable Gifts of Public Funds for Public Purposes. See Cal. Const. art. XVI, § 6; *Tevis v. City and County of San Francisco*, 43 Cal. 2d 190 (1954).
- Term Limits for Council Members. See *Cawdrey v. City of Redondo Beach*, 15 Cal. App. 4th 1212 (1993); but see Cal. Gov't Code § 36502(b) (regulating term limits).
- Land Use and Zoning Decisions (with a few exceptions). See *Brougher v. Bd. of Pub. Works*, 205 Cal. 426 (1928).

What Activities Have the Courts Classified as Statewide Concerns?

The following have consistently been classified by the courts as matters of statewide concern:

- School Systems. *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).
- Traffic and Vehicle Regulation. Cal. Veh. Code § 21.
- Licensing of Members of a Trade or Profession. *City and County of San Francisco v. Boss*, 83 Cal. App. 2d 445 (1948).
- Tort Claims Against a Governmental Entity. *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).
- Open and Public Meetings. Ralph M. Brown Act. Cal. Gov't Code §§ 54951, 54953(a).
- Exercise of the Power of Eminent Domain. *Wilson v Beville*, 47 Cal. 2d 852, 856 (1957).

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What is a charter?

A city charter is a unique document that, in many ways, acts like a constitution for the city adopting it. It can only be adopted, amended or repealed by a majority vote of a city's voters. The primary advantage of a charter is that it allows greater authority for a city's governance than that provided by state law. For example, a city may tailor its organization and elective offices, taking into account the unique local conditions and needs of the community.

A charter transfers the power to adopt legislation affecting municipal affairs from the state legislature to the city adopting it. A city operating under a charter can acquire full control over its municipal affairs. These affairs are unaffected by the general laws passed by the state legislature on the same subject matters. This, in effect, gives the local voters more control over their local government and the affairs of the city. However, a city operating under a charter is still subject to the general laws, as passed by the state legislature, on affairs that are not municipal in nature, and are of statewide concern (e.g., California Vehicle Code).

It is the scope of the term "municipal affairs" that provides the opportunity for uncertainty. No easy analytical test exists. The threshold issue is whether there is a conflict between state law and a charter city enactment. The next issue is whether the state regulation addressed an issue of "state wide concern." Courts analyze these conflicts on a case-by-case basis.

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What is in a charter?

While a city charter is not required to have any particular provisions in it, a city will often reserve for itself the greatest amount of power it can when it adopts a charter. To accomplish this goal, the charter must include a declaration that it is the intention of the city to avail itself of the full power provided by the state constitution to charter cities. However, the city is not required to extend the breadth of its charter any further than it wishes.

Some of the common areas that are explicitly regulated in a charter are:

- The date and conduct of city elections;
- Regulations on the appointment of municipal officials;
- The terms and payment of municipal officials;
- The process for removal of municipal officials;
- Form of government;
- Budget adoption;
- The number, pay, qualifications, and appointment of deputies, clerks, and other employees that each municipal officer will have;
- Sub-government in all or part of the city;
- The tenure of office for deputies, clerks, and other employees;
- The process for removal of such deputies, clerks, and other employees; and
- The constitution, regulation, and government of the local police force.

A number of California cities' charters are available online. The National Civic League also has a model charter project.

Information from the nonpartisan California League of Cities:

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Process used to adopt a charter

There are two ways to draft and adopt a city charter. The first is to elect a charter commission. The commission then has the responsibility of debating over the provisions and the drafting of the charter. The other alternative allows the governing board of the city, on its own motion, to draft the charter. In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters.

When using the charter commission approach, the first step is to elect the commission. The vote to elect a charter commission is called for by either a majority vote of the city's governing body or by a petition signed by not less than fifteen percent of the registered voters within the city. If the formation of a charter commission is requested by a petition, the authority in charge of the city's registration records must verify the signatures on the petition. The expense of this verification must be paid for by the city's governing board. If the petition is verified, the city's governing board must call for an election in accordance with sections 1000 and 10403 of the California Elections Code. See Cal. Gov't Code section 34452.

Once it has been decided that a charter commission election will take place, candidates for commissioners must be nominated. Candidates for the office of charter commissioner are nominated either in the same manner as officers of the city or by petition. A candidate for charter commissioner must be a registered voter of the city. After the election of commissioners, any vacancy on the commission will be filled by a mayoral appointment. See Cal. Gov't Code section 34452.

At an election for charter commission members, the voters will vote first on the following question: "Shall a charter commission be elected to propose a new charter?" After voting on this question, the voters will then vote for the charter commission candidates. If a majority of the voters vote for the formation of a charter commission, then the top fifteen candidates for the office of charter commissioner will be organized as the city's charter commission. No commission will be formed if a majority of voters vote against the election of a charter commission. See Cal. Gov't Code section 34453.

Once formed, the charter commission will have the responsibility of developing the city's charter. After a simple majority of commissioners have decided that the proposed charter is appropriate, they file the charter with the city's clerk in preparation for a vote by the city's electorate. See Cal. Gov't Code section 34455. However, instead of sending the whole charter at once, periodically the commission may send portions of the charter to the city's electorate for a vote. See Cal. Gov't Code section 34462.

After the charter (or portions of it) has been filed, it must be copied in type greater than 10 point and either mailed to all the voters of the city or made available to those citizens who wish to review it before the election. The city may show the difference between existing provisions of law and the new charter through the use of distinguished type styles, but this is not required. See Cal. Gov't Code section 34456.

After the charter has been filed with the city clerk, the city's governing board must decide whether to call a special election or to wait until the next established municipal election to submit the charter to the voters. If the city's governing board determines that a

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special election should be held, then they must call for that special election within 14 days of the charter being filed. The special election must be set at least 95 days after the date from which the special election was called. See Cal. Gov't Code section 34457. In any case, the charter commission must send the charter to the voters within two years of the vote that formed the commission. Upon the expiration of the two-year time period, the commission is abolished. See Cal. Gov't Code section 34462.

The alternative to electing a charter commission is to have the city's governing board develop and draft the charter. An election to decide on the adoption of a charter may be called by initiative or the city council. See Cal. Const. art. XI, § 3. On its own motion, the city's governing board may propose a charter and submit it to the voters for adoption. See Cal. Gov't Code section 34458. With this option, the governing board can call a special election or allow the charter to be voted on at any established election date, as long as that election date is at least 88 days after the proposed charter was filed with the city clerk. See Cal. Gov't Code section 34458. As a practical matter, an election may have to be called sooner than 88 days before the election in order to meet certain notice and ballot printing deadlines.

In either case, the majority of voters must vote in favor of the proposed charter for it to be ratified. The charter will not go into effect until it has been filed and accepted by the Secretary of State. See Cal. Gov't Code section 34459. After a charter is approved by a majority vote of the voters, the mayor and city clerk shall certify that the charter was submitted to the voters of the city and that it was approved by a majority vote. See Cal. Gov't Code section 34460. One copy of the approved charter shall be filed with the County Recorder's office and one shall be kept in the City's archive. See Cal. Gov't Code section 34460. A third copy of the charter must be submitted to the Secretary of State with (1) copies of all publications and notices in connection with the calling of the election; (2) certified copies of any arguments for or against the charter proposal which were mailed to the voters; (3) a certified abstract of the vote at the election on the charter. See Cal. Gov't Code section 34460.

Information from the nonpartisan California League of Cities:
<http://www.cacities.org/chartercities>

How to amend or repeal a charter

If a citizens group, or the city's governing body, wishes to amend or repeal a portion of the city's charter, the steps remain largely the same as they are for drafting a charter. There are, however, two notable exceptions. First, the petition calling for the repeal or amendment needs only ten percent of the electorate's signatures, instead of the previous fifteen percent. See Cal. Elec. Code sections 9215 and 9255. The other notable difference has to do with the charter itself. A city charter may establish different rules for the municipal elections process than those laid out by the state legislature in the Elections Code. If this is the case, the city's charter will govern the elections process used to appeal or amend the city's charter, instead of the general laws laid out in the Elections Code.

Information from the nonpartisan California League of Cities:

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Charter Cities

Adelanto	Lemoore
Alameda	Lindsay
Albany	Loma Linda
Alhambra	Long Beach
Anaheim	Los Alamitos
Arcadia	Los Angeles
Bakersfield	Marina
Bell	Marysville
Berkeley	Merced
Big Bear Lake	Modesto
Buena Park	Monterey
Burbank	Mountain View
Carlsbad	Napa
Cerritos	Needles
Chico	Newport Beach
Chula Vista	Norco
Compton	Oakland
Culver City	Oceanside
Cypress	Oroville
Del Mar	Pacific Grove
Desert Hot Springs	Palm Desert
Dinuba	Palm Springs
Downey	Palmdale
El Centro	Palo Alto
Eureka	Pasadena
Exeter	Petaluma
Folsom	Piedmont
Fortuna	Placentia
Fresno	Pomona
Gilroy	Port Hueneme
Glendale	Porterville
Grass Valley	Rancho Mirage
Hayward	Redondo Beach
Huntington Beach	Redwood City
Indian Wells	Richmond
Industry	Riverside
Inglewood	Roseville
Irvine	Sacramento
Irwindale	Salinas
King City	San Bernardino
Kingsburg	San Diego
Lancaster	San Francisco
La Quinta	San Jose

Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

San Leandro	Signal Hill
San Luis Obispo	Solvang
San Marcos	Stockton
San Mateo	Sunnyvale
San Rafael	Temple City
San Ramon	Torrance
Sand City	Truckee
Santa Ana	Tulare
Santa Barbara	Vallejo
Santa Clara	Ventura
Santa Cruz	Vernon
Santa Maria	Victorville
Santa Monica	Visalia
Santa Rosa	Vista
Santee	Watsonville
Seal Beach	Whittier
Shafter	Woodlake

Total Cities: 120

CHARTER OF THE CITY OF SAN BRUNO

STATEMENT OF PURPOSE

The City of San Bruno was incorporated as a general law city in 1914 by residents seeking the right to manage local affairs. Since then, the authority of general law cities over local affairs has diminished. Furthermore, the State has continually added mandates for cities that require local resources to address State concerns, increased its control over local matters, and redirected much needed local revenue for its own purposes. Changes in State law have limited the ability of San Bruno to decide how to use local dollars for local needs. The power of home rule, granted by the California Constitution, makes available to charter cities a variety of tools to use to implement local policy and address local concerns. With this Charter, San Bruno will reclaim more local autonomy and expand the economic and fiscal independence of our City government to promote the health, safety, and welfare of all its residents. Therefore, we do hereby exercise the express right granted by the Constitution of the State of California to enact and adopt this Charter for the City of San Bruno.

ARTICLE I. ESTABLISHMENT OF HOME RULE, POWER OVER MUNICIPAL AFFAIRS, GENERAL LAW POWERS

Section 100. Powers of the City. The City of San Bruno (the "City") shall have full power and authority to adopt, make, exercise, and enforce all legislation, laws, ordinances, resolutions, and regulations with respect to municipal affairs, subject only to the limitations and restrictions imposed on that power by this Charter, the Constitution of the State of California, and the laws of the United States.

Section 101. Municipal Affairs. Municipal affairs encompass all matters of local concern as determined by the City Council consistent with the meaning of "municipal affairs" under the constitutional, statutory, and judicially defined law of the State of California. Each of the matters set forth in this Charter are declared to be municipal affairs, consistent with the laws of the State of California. The municipal affairs set forth in this Charter are not intended to be an exclusive list of municipal affairs over which the City Council may govern. The exercise of home rule over each matter set forth in this Charter uniquely benefits the residents of the City and addresses local concerns within the City.

Section 102. Powers under State Law.

- (a) In addition to the power and authority granted by this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make, exercise, and enforce all legislation, laws, ordinances, resolutions, and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between this Charter and the general laws of the State of California related to a municipal affair, this Charter shall control.

- (b) Nothing in this Charter is intended to restrict the City in exercising any right, power or authority granted under the general laws of the State of California. However, the provisions of this Charter shall prevail in the event of any conflict with the general laws of the State of California, unless preempted by state law on matters of statewide concern.

ARTICLE II. CONTINUATION OF BOUNDARIES, FORM OF GOVERNMENT, AND EXISTING LAW

Section 200. Incorporation and Succession. The City shall continue to be a municipal corporation known as the City of San Bruno. The boundaries of the City shall continue as established prior to this Charter taking effect until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, have, possess, control, and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled, or enjoyed by it at the time this Charter takes effect. The City shall be subject to all debts, obligations, and liabilities of the City at the time this Charter takes effect.

Section 201. Form of Government. The government of the City shall continue to be the Council-Manager form of government as established by the San Bruno Municipal Code at the time that this Charter takes effect and by the laws of the State of California. The Council-Manager form of government of the City may be changed in the same ways and using the same procedures as a general law city.

Section 202. City Council, City Manager, and City Attorney.

- (a) The City Council shall establish the policy of the City. The City Manager shall carry out that policy.
- (b) The City Council shall appoint the City Manager.
- (c) The City Manager, as the chief administrative officer of the City, shall appoint all department heads other than the City Attorney.
- (d) The City Council shall appoint the City Attorney. The City Attorney may be an employee of the City or an independent contractor providing legal services pursuant to a contract.

Section 203. Continuation of Existing Local Laws. All ordinances, codes, resolutions, regulations, rules, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until repealed, amended, changed, or superseded in the manner provided by this Charter and any other applicable laws.

Section 204. General State Laws. Except as provided in this Charter and in any ordinance, code, resolution, or other law adopted by the City Council regarding a matter

that is a municipal affair, the City shall be governed by the general laws of the State of California.

ARTICLE III. MUNICIPAL REVENUE

Section 300. Revenue Raising Power. The City may exercise all powers of a charter city to generate revenue, including but not limited to taxes, fees, assessments, and other charges.

Section 301. Real Property Transfer Tax. Without limiting the general power of the City, as expressed in Section 300 above, to generate revenue, the City may impose a tax on the conveyance of real property, based upon the price paid for the real property ("real property transfer tax"). Any real property transfer tax imposed by the City shall be in addition to any similar tax authorized by the general laws of the State of California.

ARTICLE IV. PREVAILING WAGES FOR PUBLIC WORKS AND PUBLIC CONTRACTING

Section 400. State Prevailing Wage Law. The City shall comply with the laws of the State of California applicable to general law cities regarding the payment of prevailing wages for public works projects.

Section 401. Contracting for Public Works. The City shall comply with the laws of the State of California applicable to general law cities regarding contracting for public works. The City's laws, ordinances, codes, resolutions, and policies implementing State laws regarding contracting for public works shall continue to apply when this Charter takes effect and may be amended thereafter.

ARTICLE V. ELECTIONS

Section 500. State Elections Law. The City shall comply with the laws of the State of California applicable to general law cities regarding elections. The City's laws, ordinances, codes, resolutions, and policies implementing State laws regarding elections shall continue to apply when this Charter takes effect and may be amended thereafter.

Section 501. Initiative, Referendum, and Recall. Without limiting the general applicability of Section 500 of this Charter, the City shall comply with the laws of the State of California applicable to general law cities regarding initiative, referendum, and recall.

ARTICLE VI. INTERPRETATION, SEVERABILITY, AND AMENDMENT

Section 600. Construction and Interpretation. The language of this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter that is a municipal affair. Every reference in this Charter to state or federal law shall mean that law as it exists when this Charter takes effect or as it may thereafter be amended.

Section 602. Severability. If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

Section 603. Amendment of Charter. As provided by state law, this Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the City Council.



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: June 7, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

SUBJECT: Provide Additional Direction Regarding Potential November 2022 Ballot Measures Regarding the Elected Mayor System and Enact Term Limits to the Elected Mayor and Council Offices

BACKGROUND:

The City Council previously directed staff to draft materials for two ballot measures for the November 2022 general election.

1. Establish a system whereby voters would elect five councilmembers, who would then select a mayor from amongst themselves annually. This measure would change the current system in which voters elect four councilmembers to four-year terms and directly elect a Mayor for a two-year term. If adopted, it would also require increasing the number of districts from four to five at a later date.
2. Establish term limits of no more than three consecutive terms for councilmembers elected in November 2022 and thereafter, with no limit on the total number of terms served. Both measures would repeal existing ordinances.

Pursuant to City Council direction, staff is prepared to develop separate staff reports, resolutions, and ordinances so the measures can appear on the ballot separately. An affirmative vote of at least three councilmembers is required to place each measure on the ballot, and each would require a majority vote of the people to adopt.

After conducting a poll of likely voters, the City's consultants have recommended that consideration be given to combining these two measures into one "election reform" measure, should the City Council desire to move forward with both items. The purpose of this staff report is to provide the City Council with proposed ballot language for each measure separately, as well as for one combined measure, so the City Council can provide staff with additional direction. As noted in prior meetings, three affirmative votes of the City Council will be required to place any of these measures on the ballot.

DISCUSSION:

For the ballot measure regarding term limits only, the language could read as follows:

“For terms starting after the effective date of this election, shall councilmembers be limited to three consecutive four-year terms, and the elected Mayor limited to three consecutive two-year terms, with no limit on the total number of terms served?”

For the ballot measure regarding the mayor selection process only, the language could read as follows:

“Shall the number of city council districts be expanded from four to five, with the mayor chosen annually by the council from among its members, rather than being separately elected every two years?”

If the two ballot measures were to be combined, the language could read as follows:

“To reform local elections, shall: 1) councilmembers be limited to three consecutive four-year terms, and the elected Mayor limited to three consecutive two-year terms, with no limit on the total number of terms served; and shall 2) the number of city council districts be expanded from four to five, with the mayor chosen annually by the council from among its members, rather than being separately elected every two years?”

Once the City Council provides direction regarding whether to place separate measures or a combined measure on the ballot, staff can prepare the appropriate documents for final City Council approval at a subsequent meeting. The deadline for submitting ballot measures to the County is August 12.

FISCAL IMPACT:

On March 9, 2022, the County elections office provided staff with an estimated range of \$93,000-\$112,000 for the upcoming municipal election plus one ballot measure. The County estimated that each additional ballot measure would add approximately \$10,000 to the cost of the election. Combining the two proposed ballot measures would result in a savings of approximately \$10,000. Additionally, the City would incur costs to convert from 4 to 5 council districts for the November 2024 election should the ballot measure to change the mayor selection process be approved on the November 2022 ballot. The cost to convert from 4 to 5 council districts is estimated to be a one-time cost of \$60,000 – \$80,000, which could be offset overtime by saving from conducting a mayoral election every 2 years. The specific savings from conducting a mayoral election every 2 years vs. holding an election for a 5th councilmember every 4 years could not be at the time of this report.

ALTERNATIVES:

1. Request additional information before deciding whether to place the measures on the ballot separately or together;
2. Direct staff to discontinue work on one or more of the ballot measures.

RECOMMENDATION:

Provide Additional Direction Regarding Potential November 2022 Ballot Measures to Establish a Rotational Mayor System and Term Limits

ATTACHMENTS:

None.



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: June 7, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

SUBJECT: Receive Presentation and Provide Direction on the Feasibility of Infrastructure Bond on November 2022 Ballot

PRESENTATION SUMMARY:

Bond financing is a type of long-term borrowing that state and local governments use to raise money, primarily for long lived infrastructure assets. Public agencies obtain money by selling bonds to investors. In exchange, the agencies promise to repay the money to the bondholders, with interest, according to specified schedules. In California, approval of the issuance of infrastructure bonds by a city requires 2/3 approval by voters in a municipal election.

As a follow up to the City's failed effort to increase storm water fees in 2021, the City Council has discussed evaluating the feasibility of placing an infrastructure bond on the November 2022 ballot. This effort is a component to the ongoing Comprehensive Fiscal Sustainability Project which includes the study of the City's fiscal condition and potential revenue options to ensure public services that may be unfunded or underfunded.

The City of San Bruno partnered with a TGWBH / Props and Measures (ballot consultant) and Godbe Research (polling consultant) to prepare and conduct an independent community survey in May 2022 to, in part, evaluate the feasibility of likely voter support for an infrastructure bond on the upcoming ballot. Godbe Research conducted the survey from May 11-18, 2022, targeting likely November 2022 voters. Godbe Research and TGWBH / Props and Measures will present the survey results to the City Council as the first item on the June 7, 2022 City Council meeting agenda

The survey tested likely voters support for a variety of infrastructure needs. These included infrastructure needs in the proposed ballot measure language:

- upgrade fire stations ensuring operation during earthquakes/ natural disasters;
- modernize the San Bruno Library for children, teen, adult and senior services/ programs;
- improve neighborhood parks, ballfields and playgrounds for safe, clean places to play; and
- repair deteriorating storm drains to prevent flooding and water pollution;

As will be discussed during the prior study session item regarding survey results, none of these infrastructure needs garnered 2/3 likely voter support. The consultants concluded:

- The bond measure as-tested does not appear viable this year at the required 2/3 voter approval threshold.
- Residents are price-sensitive as regards a potential future bond measure.
- Strong majorities of voters do prioritize important capital improvements.
- San Bruno residents prioritize funding for streets and roads, fire stations, storm drains, parks and libraries, in that order.

At the June 7 study session, staff will discuss the impact of the survey results and seek direction from the City Council on next steps in regard to a potential infrastructure bond for the November 2022 election and other steps that should be taken to inform the community on the City's infrastructure and fiscal needs.

ATTACHMENTS:

1. None.